

# LOCAL COURT GOVERNANCE

## in Vietnam

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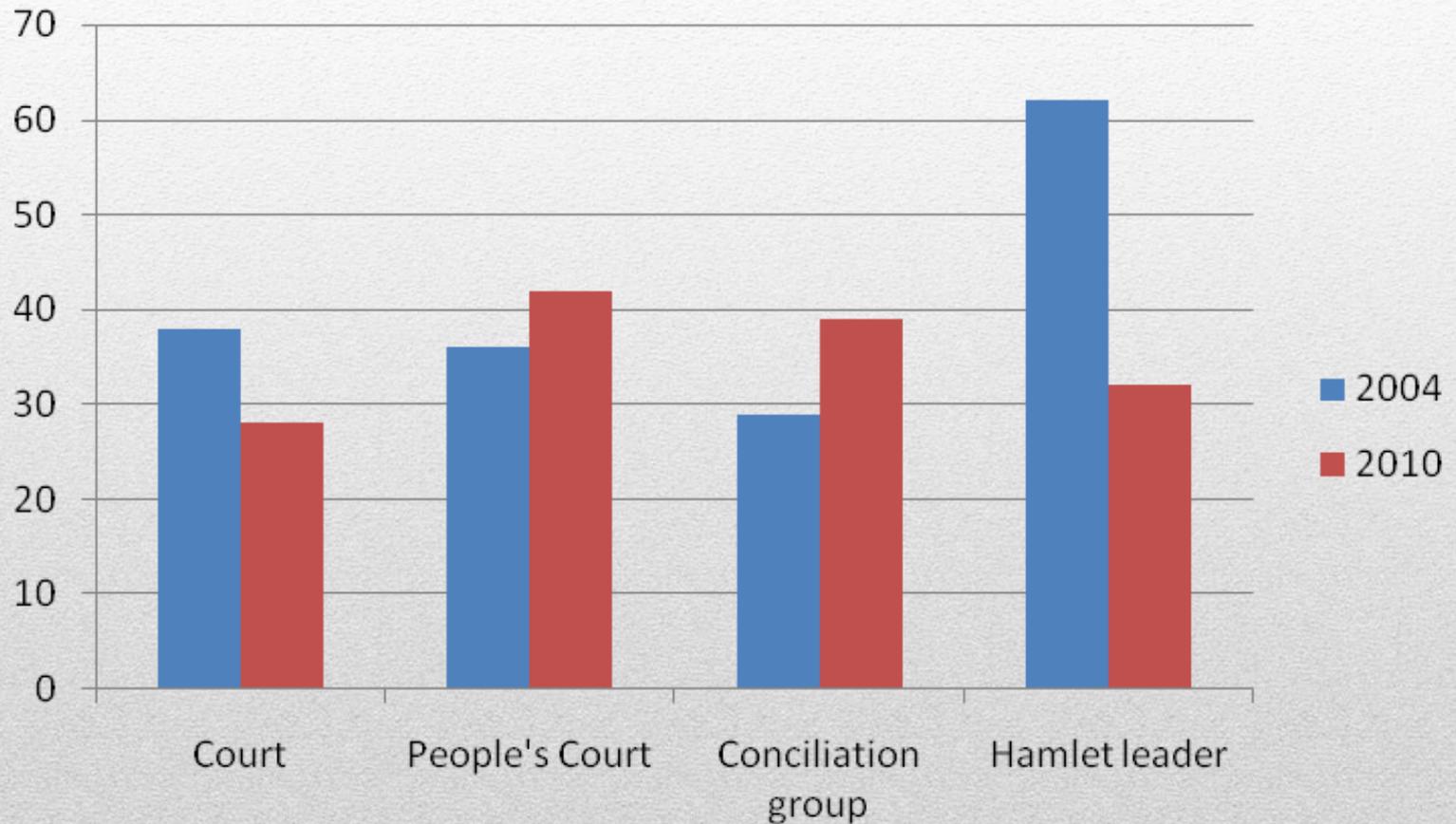
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- The court system has made much effort to improve adjudication quality, reduce number of cases annulled and corrected due to subjective reasons in 2010-2012 (*Report of the SPC Chief Justice at the 4<sup>th</sup> session of XIIIth NA*).
- A high rate of appellate, cassational review, and revised cases is found due to several reasons. Some surveys show low trust by people in the court system for settling disputes, compared to some other state apparatus.
- Difficulty is found in official organization, the shortage of judges and court staff is popular; especially, in some localities, judges suffer from pressure due to huge work load

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## Recitals

## People's trust in legal institutions *(Access to Justice from people's perspective)*



- The Judicial Reform Strategy to 2020 has determined that *“the tribunal sector is placed at the centre and adjudication plays the key role”* and set forth several objectives for reform, which requires to study:
  - The reality of current court governance, such as relationship between district courts and provincial court, relationship between chief justice and judges, etc. to ensure judges’ “independence” while still guaranteeing adjudication quality;
  - The role of other state agencies to court activities, such as the role of the NA, People’s Council, People’s Committee in ensuring courts’ activities but ‘serving the local stability, security, order, and politics

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## Recitals

- Practical issues in court governance impact judges' adjudication, influencing the possibility to access to justice of people.
- Legal issues (including Constitution and legal regulations) relating to court governance which impacts judges' independence and some operation principles of courts such as *the principle of "collective adjudication, the public trial principle, "the principle of people's representation in adjudication activities, the principle of the two-level trial...*



**SURVEY STUDY OF**

**COURT GOVERNANCE IN  
VIETNAM**

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- The Research on “Survey on local court governance in Vietnam” is within practical studies on court governance nationwide with nationwide and reference of relevant international experience of the Secretariat – Steering Committee of Judicial Reform to assess correctly the reality of court governance in Vietnam.
- **5336** questionnaires were sent directly from the Secretariat of the Central Steering Committee for Judicial Reform to all judges working at 63 provincial people’s courts and 697 district ones; **2516** filled questionnaires were returned (approximately **47%**).
- 6 provinces selected for in-person interviews representing such factors as geographical areas, the number of cases, residential areas, social-economic conditions, ... with **126** interviews with court leaders, judges and clerks, provincial party committee, provincial people’s council, provincial PC, and provincial procuracy.

## 4 contents:

- Judicial administrative management at courts
- Court governance
- Reciprocal impacts between court administration and court governance
- Some issues of judicial reform in local court management.



# MANAGEMENT OF JUDICIAL ADMINISTRATION

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Pre-proceedings Judicial  
administrative  
management

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## ***Resolution 49/NQ-TW***

- Renovating administrative procedures in judicial agencies in order to facilitate people's access to justice: people only need to submit their petitions at courts, the courts are responsible for receiving and handling the petitions.
- Implementing Judicial Reform Strategy to 2020 in conformity with the process of renovating legislative task and administrative reform program.
- Clearly distinguishing administrative management competence from judicial responsibility and power in judicial proceedings.

## ***The survey studied Judges' opinions about***

- The receipt of petitions and complaints at courts
- Forms, public guidance of litigation procedures at court house
- Procedures and criteria for case assignment.



# The receipt of petitions

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## Judicial administrative work

Model 1: Judges are assigned to directly receive petition weekly (specialized court). Judges study petitions themselves and decides to accept the case.

Leaders will only monitor the process after the case is accepted.

Model 2: A court clerk of specialized court receives petitions, judges are assigned weekly. The clerk sends the petitions to Judges for studying and and deciding to accept the case.

Leaders will only monitor the process after the case is accepted.

Model 3: The Court has a unit specialising in receiving petitions (judicial administrative division). This division receives petitions, guides people about case documents, contents of petitions, litigation procedures, etc...

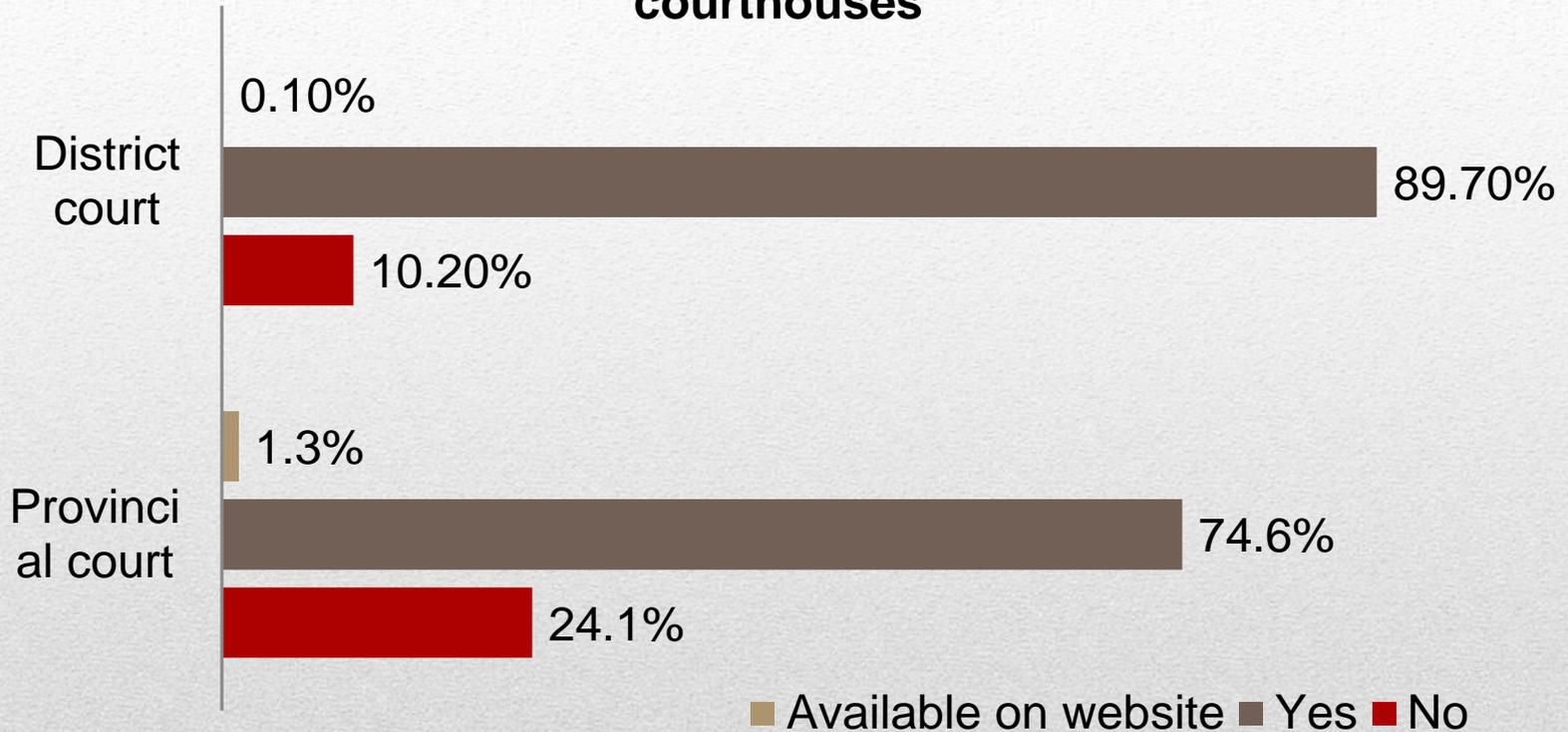
Leaders will monitor the process from the beginning

GIÁ TRỊ TÀI SẢN CÓ TRANH CHẤP	MỨC ÁN PHÍ
a) Từ 4.000.000 đồng trở xuống	200.000 đồng
b) Từ trên 4.000.000 đồng đến 400.000.000 đồng	5% giá trị tài sản tranh chấp
c) Từ trên 400.000.000 đồng đến 800.000.000 đồng	20.000.000 đồng + 4% của phần giá trị tài sản có tranh chấp vượt quá 400.000.000 đồng
d) Từ trên 800.000.000 đồng đến 2.000.000.000 đồng	400.000.000 đồng 36.000.000 đồng + 3% của phần giá trị tranh chấp vượt quá 800.000.000 đồng
đ) Từ trên 2.000.000.000 đồng đến 4.000.000.000 đồng	72.000.000 đồng + 2% của phần giá trị tranh chấp vượt quá 4.000.000.000 đồng
e) Từ trên 4.000.000.000 đồng	112.000.000 đồng + 0,1% của phần giá trị tranh chấp vượt quá 4.000.000.000 đồng

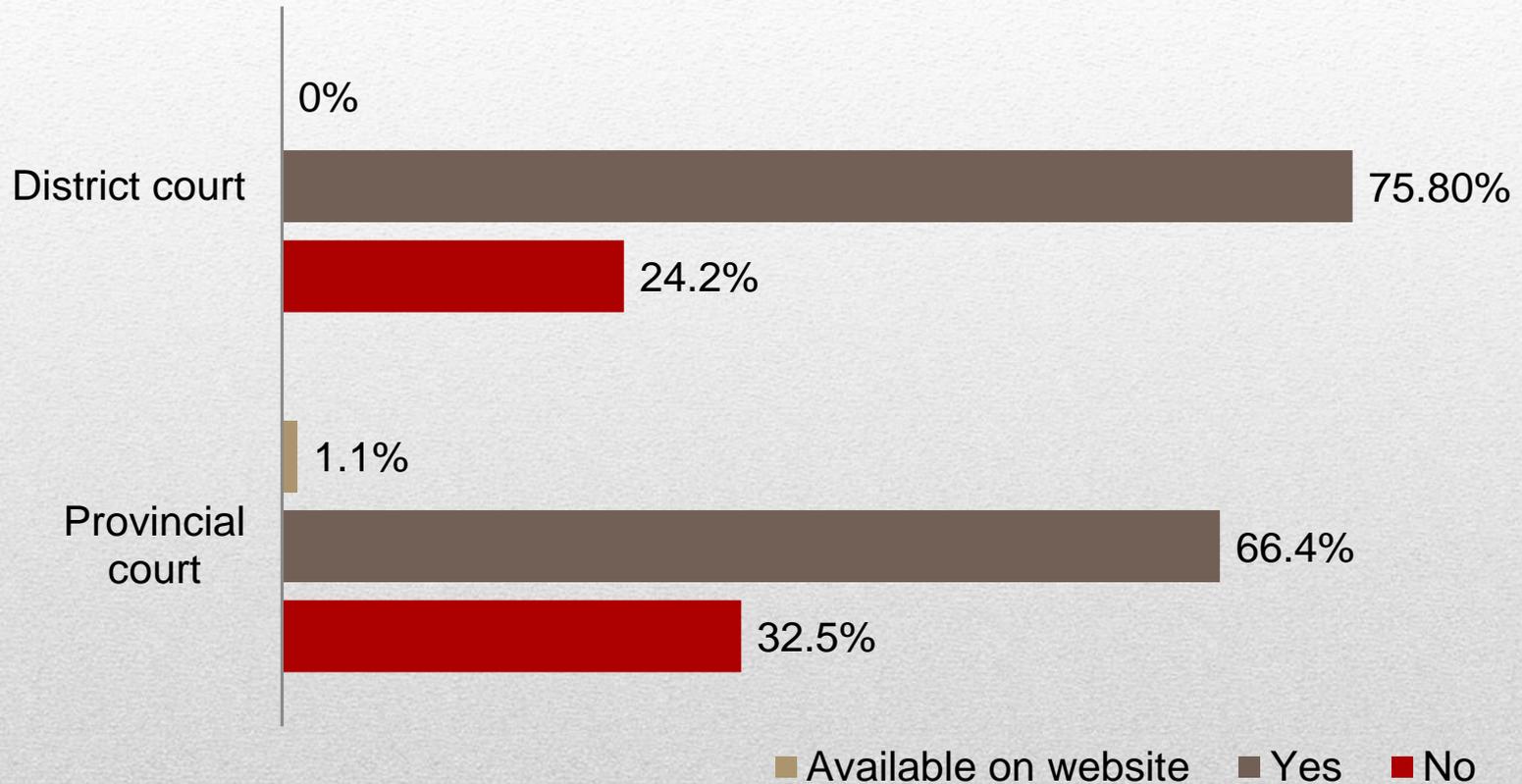
**HƯỚNG DẪN CÁC LOẠI ĐƠN**

Publishing petition templates,  
information about litigation  
procedures

## Templates of petitions posted at courthouses



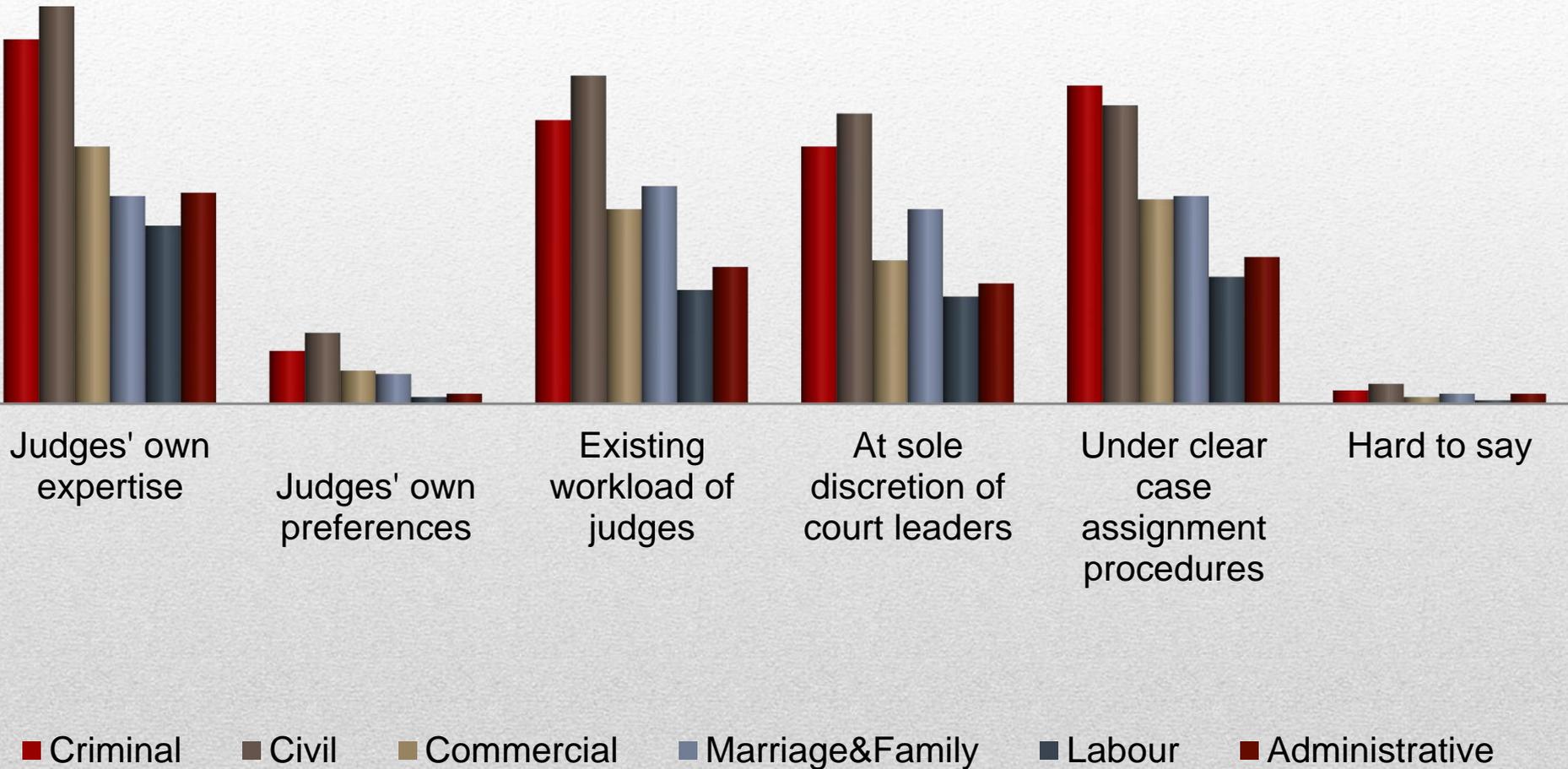
## Guidelines for court procedures on billboards available at courthouses



# Case assignment

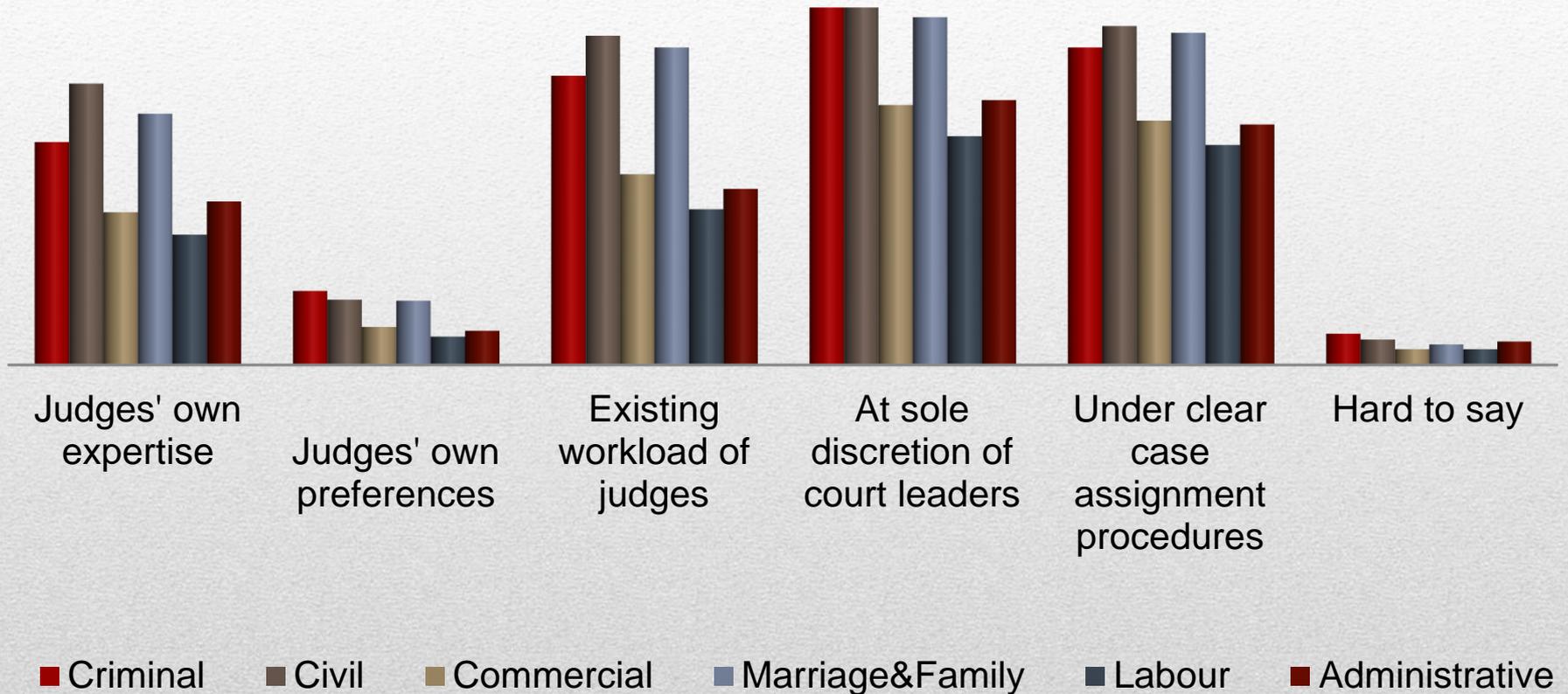
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## Practice of case assignment at Provincial People's Courts



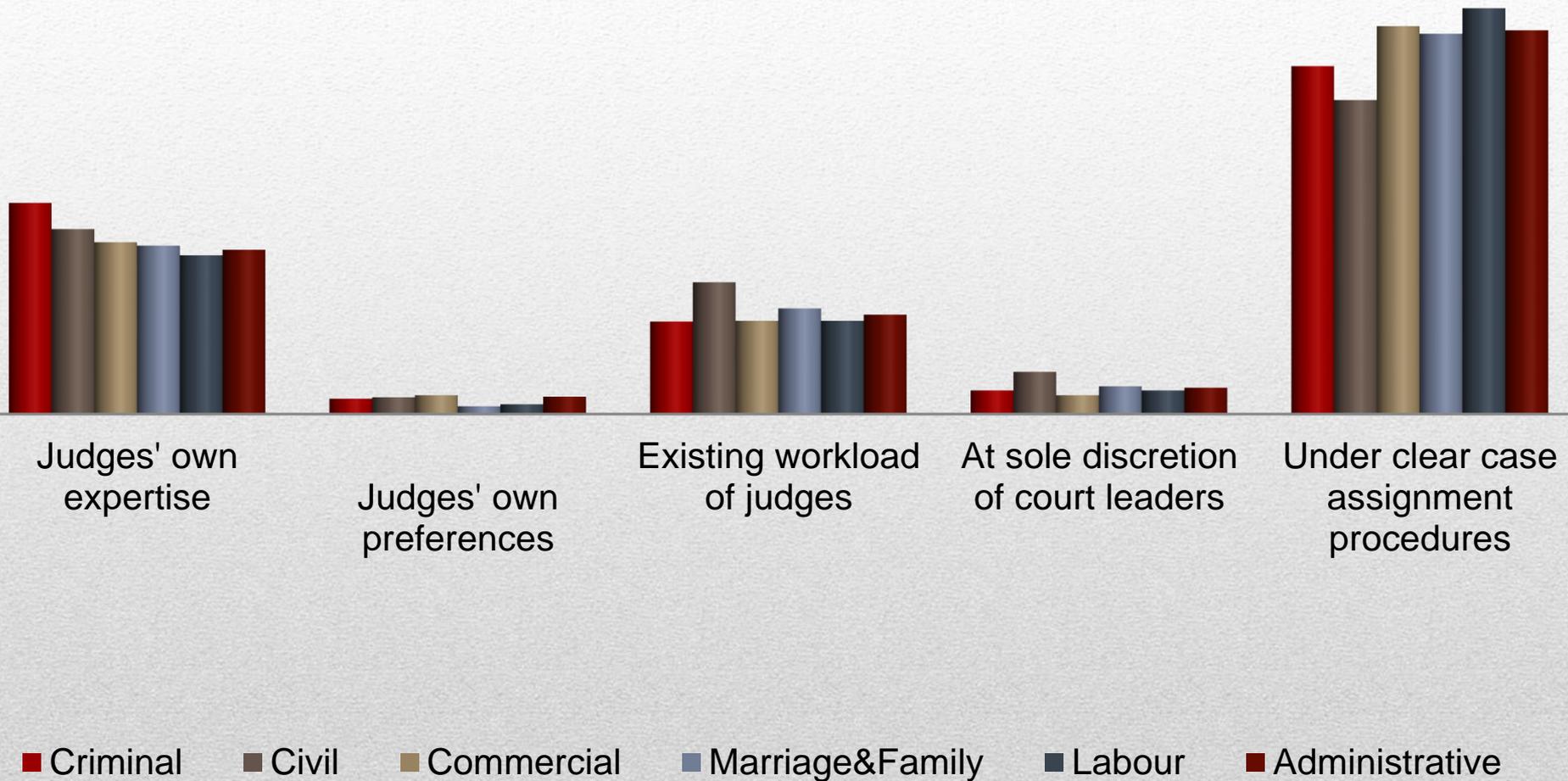
Judicial administrative management in proceedings

## Practice of case assignment at District People's Courts



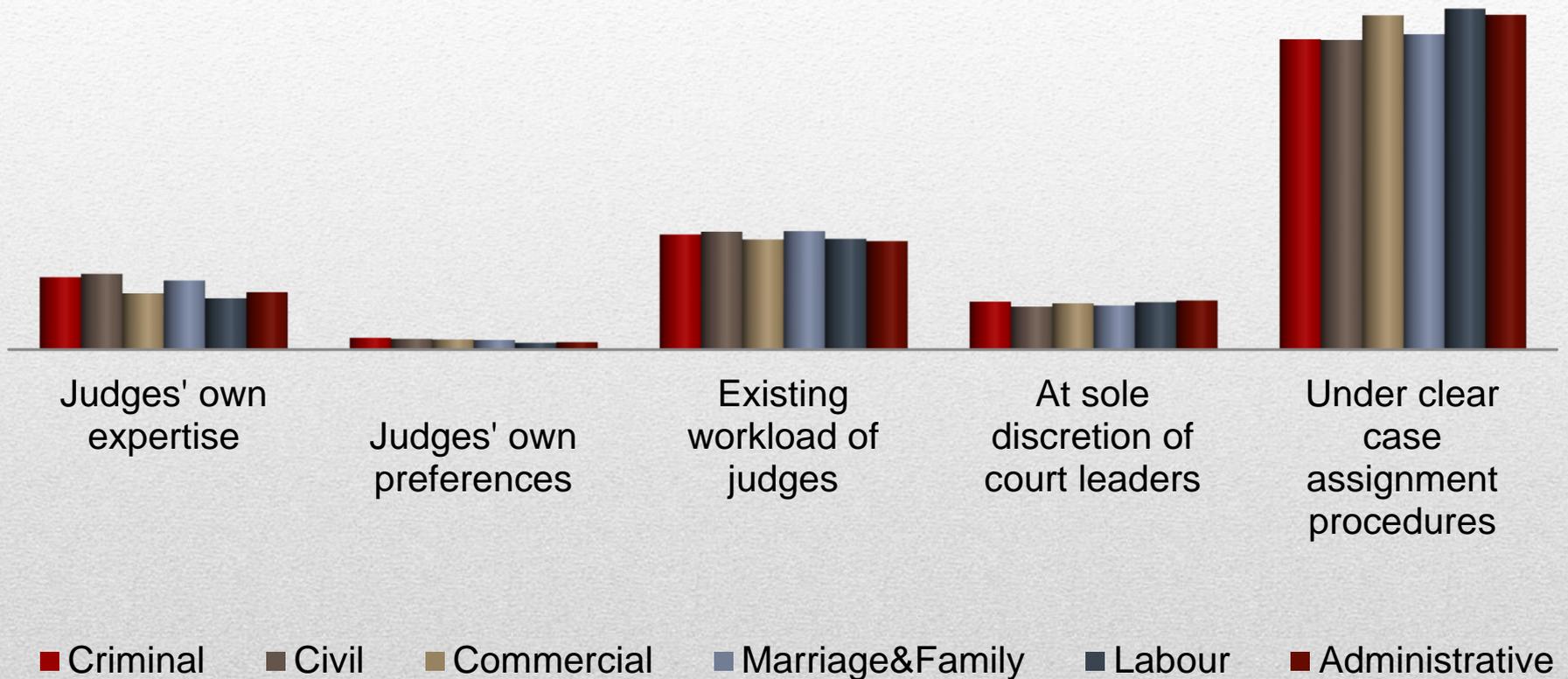
Judicial administrative management in proceedings

## Criteria for case assignment desired by Judges of provincial people's courts



Pre-proceedings Judicial administrative management

## Criteria for case assignment desired by Judges of provincial people's courts



## Some comments:

- It requires a consistent model for receiving petitions of non-criminal cases at courts nationwide. The “one-stop-shop” model of administrative agencies being piloted in some courts is promoting well and can be applied nationwide.
- The application of receipt/appointment slip should be comprehensively applied to litigants. Such papers should be used in any administrative model for receiving petition files.
- The mechanism that the Chief Justice assigns cases to Judges seems to ensure limitation of factors impacting the independence of Judges and Adjudication panel. But this mechanism should be perfected to avoid arbitrariness and abusing.
- Information technology should be applied (via case management software) to support more transparent assignment of cases.



Judicial administrative  
management in  
proceedings at courts

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## ***Resolution 49/NQ-TW***

- Clearly distinguishing administrative management competence from judicial responsibility and power in judicial proceedings.
- Improving independence and accountability before laws for their litigation acts and decisions
- Increasing adversary quality.
- Enhancing and strengthening effectiveness of people's supervision role.

## ***The survey studied Judges' opinions about***

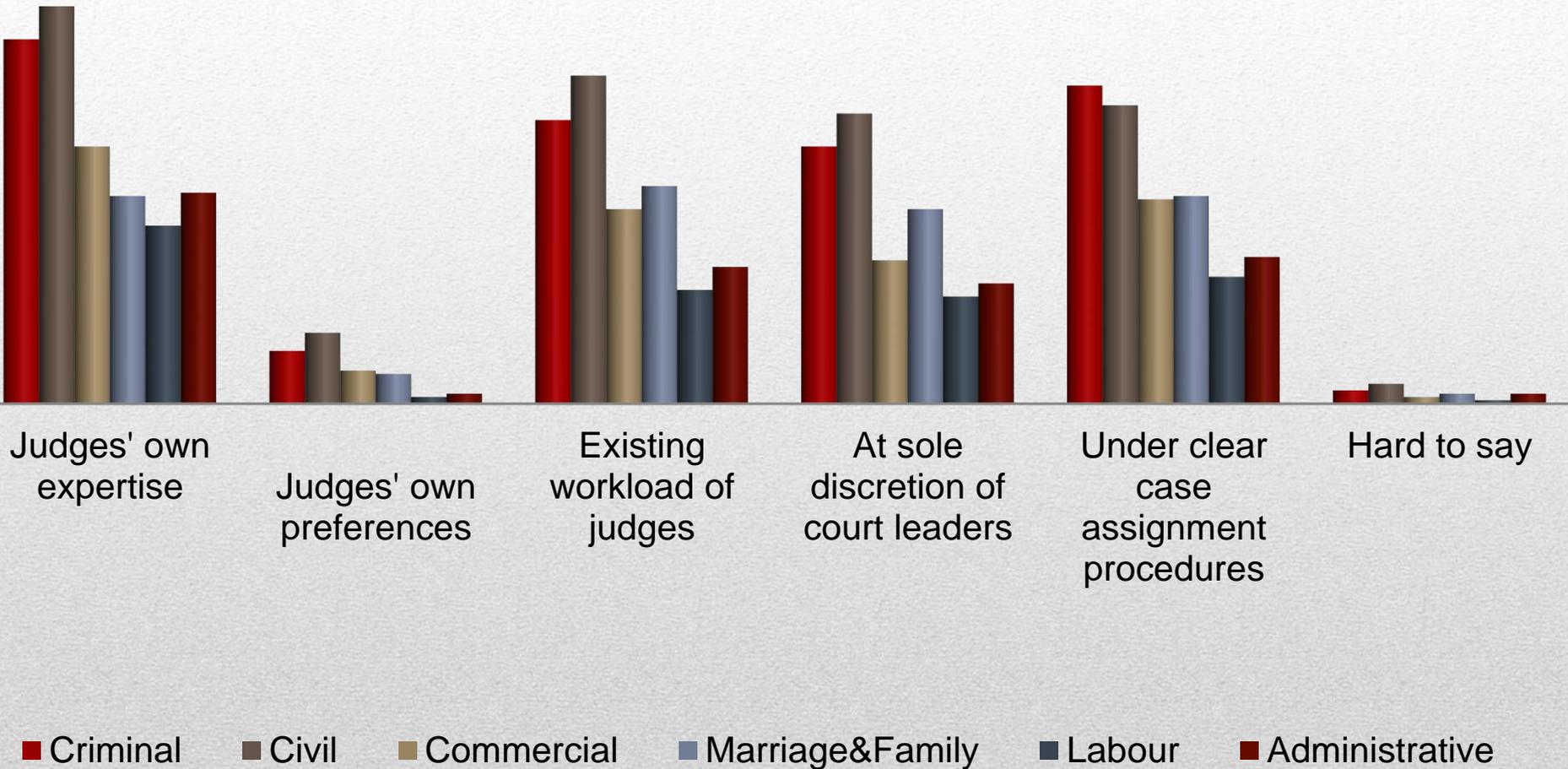
- The role of court leaders in monitoring and ensuring procedural time-limit
- Setting up and ensuring operations of the Adjudication panel.
- Influences by state agencies on Judges' adjudication
- Judges' independence in adjudication
- Publicising adjudication activities



Leaders' role in ensuring  
procedural time-limits

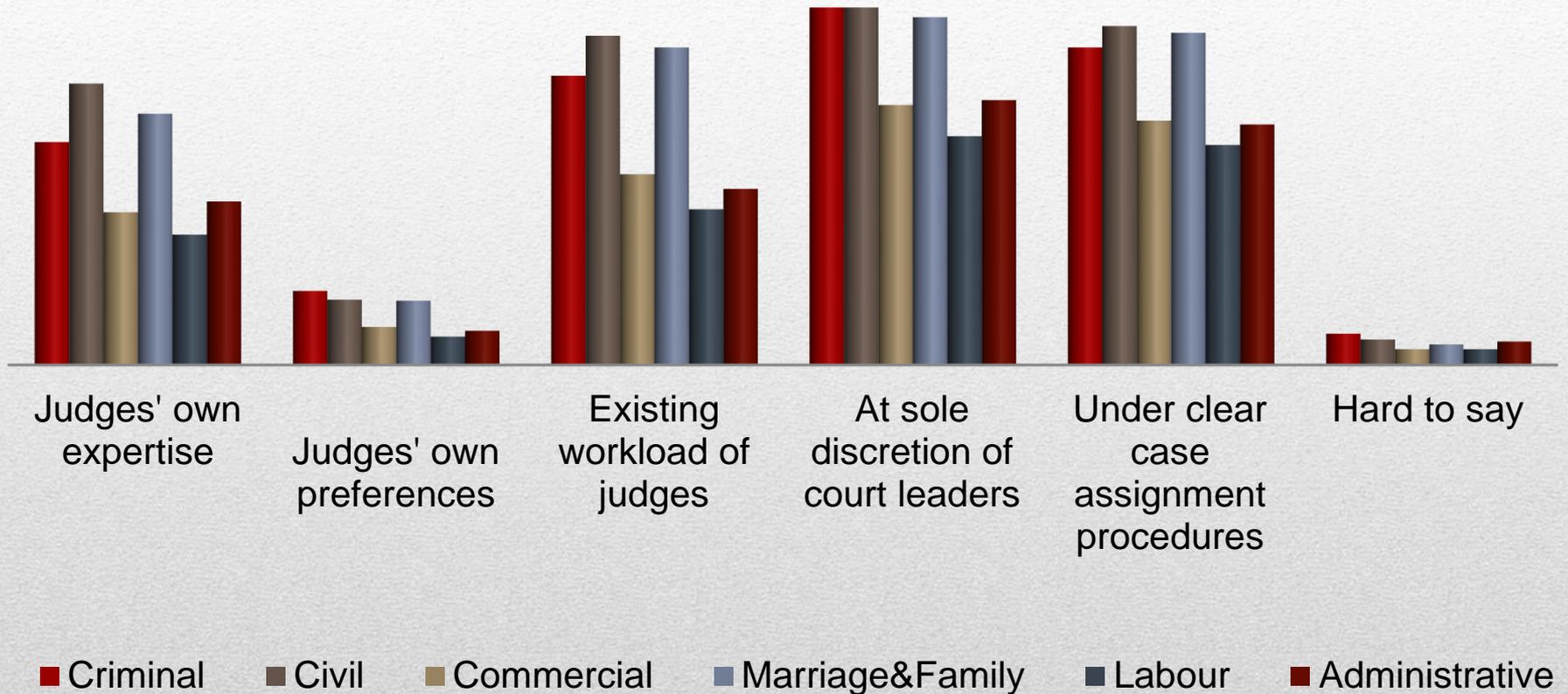
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## Practice of case assignment at Provincial People's Courts



Judicial administrative management in proceedings

## Practice of case assignment at District People's Courts



Judicial administrative management in proceedings



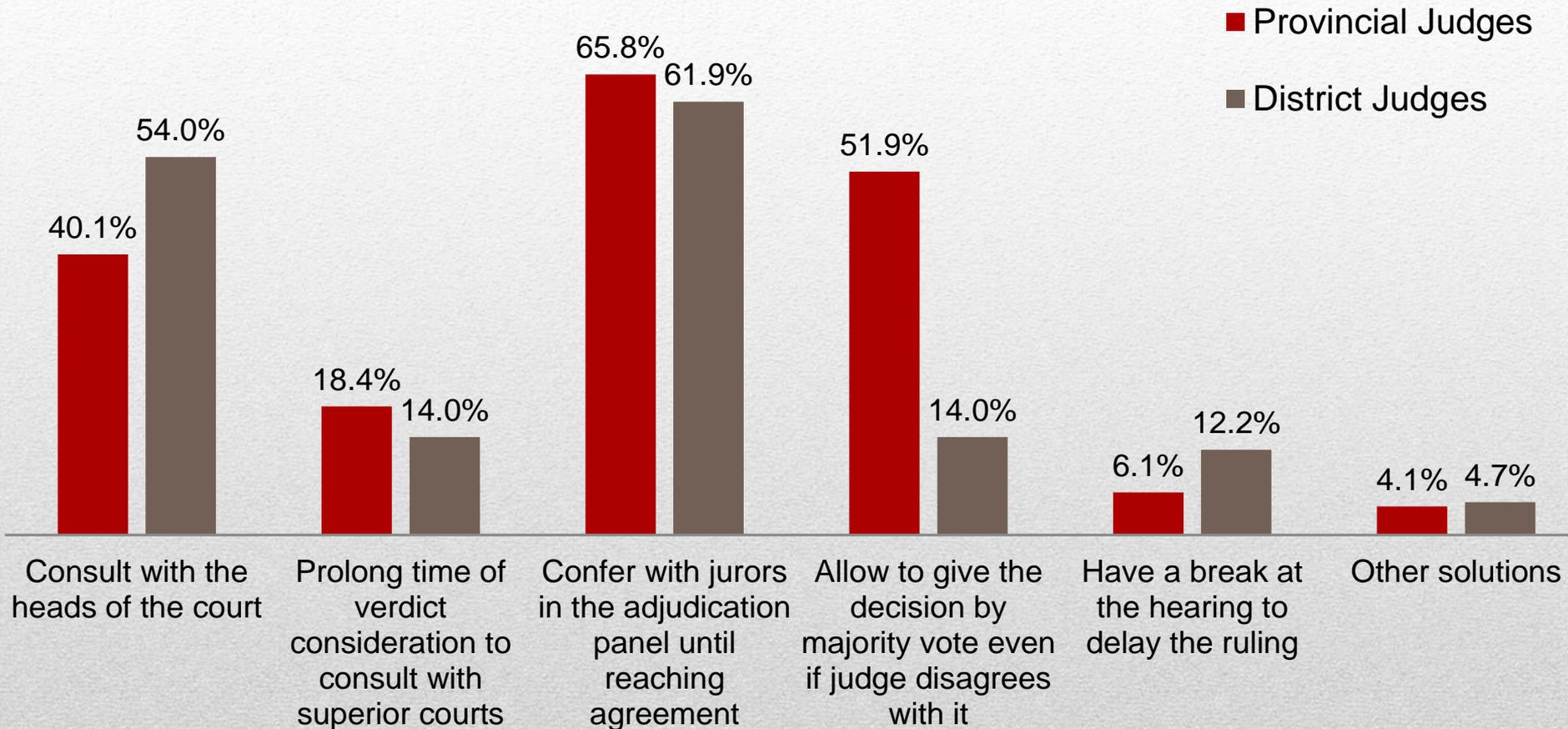
# Ensuring activities of Adjudication Panel

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**Table 1: Time for case file study before hearings of other members in the Adjudication Board (%)**

	judge of provincial court						judge of district court					
	Criminal	Civil	Commer ce	Marriag e & Family	Labour	Adminis trative	Criminal	Civil	Commer ce	Marriag e & Family	Labour	Adminis trative
About less than 1 hour on the date of hearing	15.1%	21.0%	15.1%	23.5%	20.3%	14.4%	12.1%	14.6%	15.5%	18.0%	14.7%	13.1%
Several hours on the date of hearing	10.5%	18.5%	14.3%	19.6%	13.0%	14.4%	17.3%	19.3%	17.0%	18.0%	16.4%	16.5%
More than one day	44.3%	35.0%	42.1%	35.9%	33.3%	37.1%	56.0%	51.4%	51.6%	50.6%	52.7%	52.9%
More than one week	30.1%	25.5%	28.6%	20.9%	33.3%	34.0%	14.5%	14.8%	15.9%	13.4%	16.2%	17.5%

## Solutions in case members of Adjudication Panel have different opinions



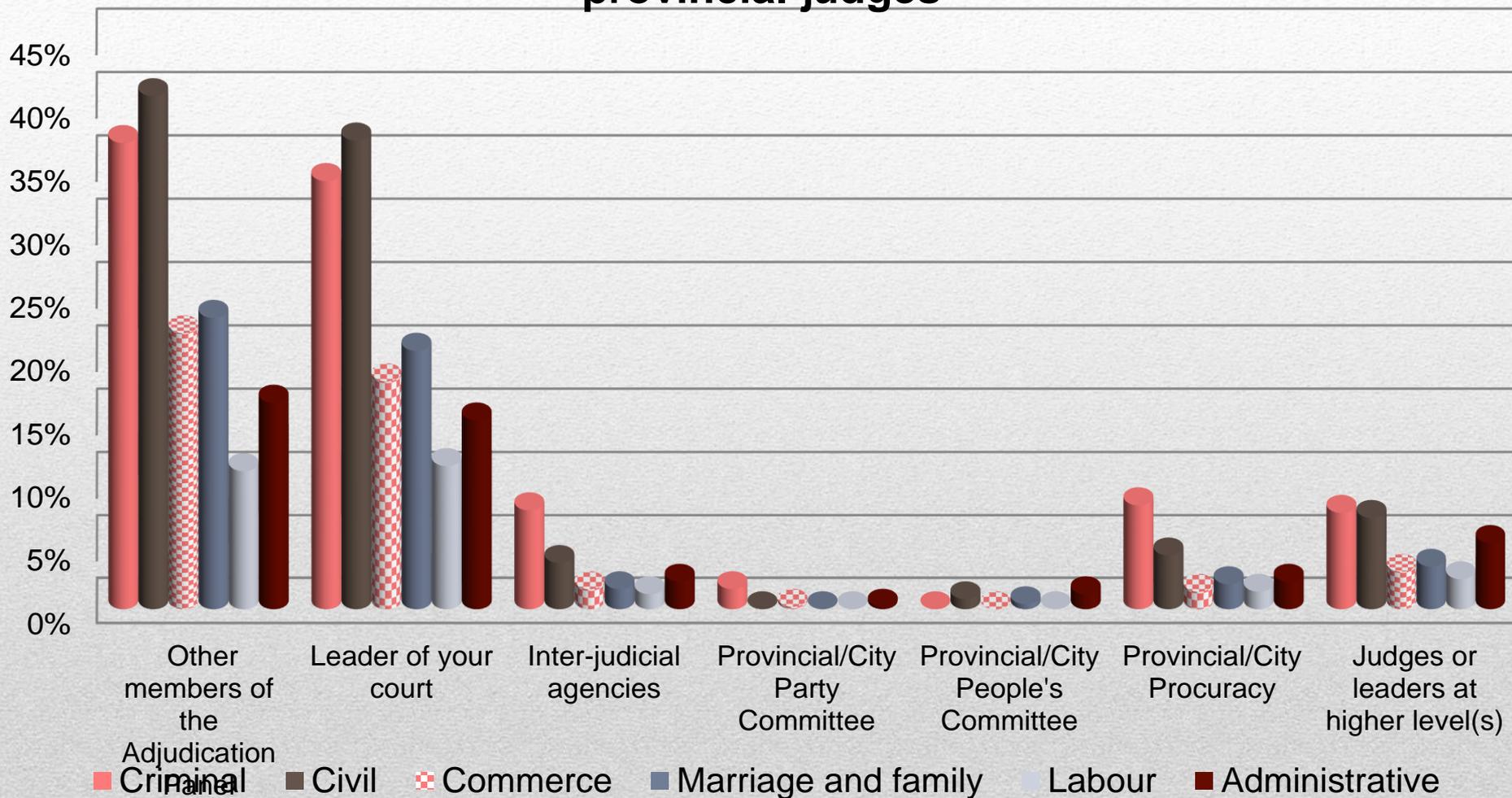
Judicial administrative management in proceedings



# State agencies' influence on adjudication activities

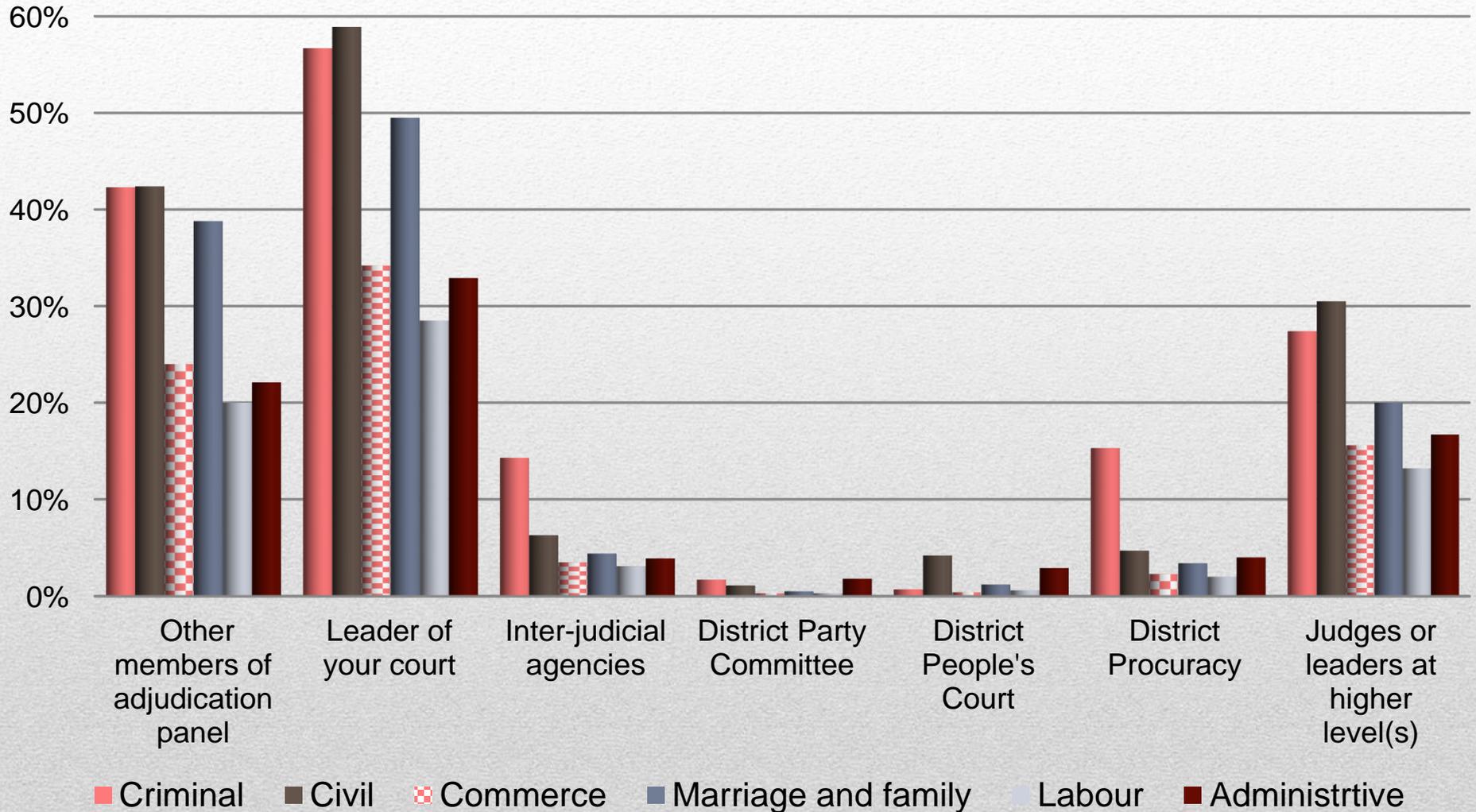
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## Exchange of case settlement options by case type of provincial judges



Judicial administrative management in proceedings

## Case consideration and settlement by district judges

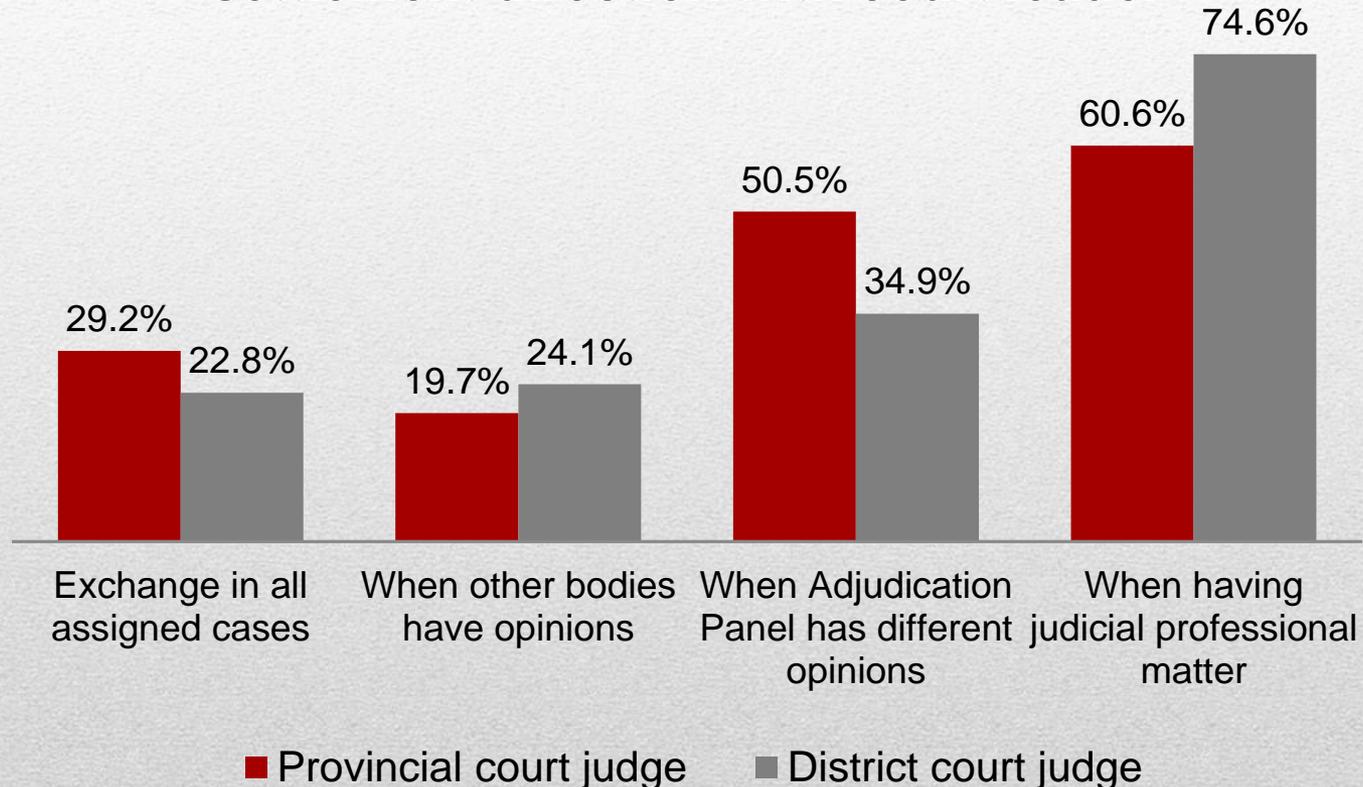


Judicial administrative management in proceedings

# Independence of Judges

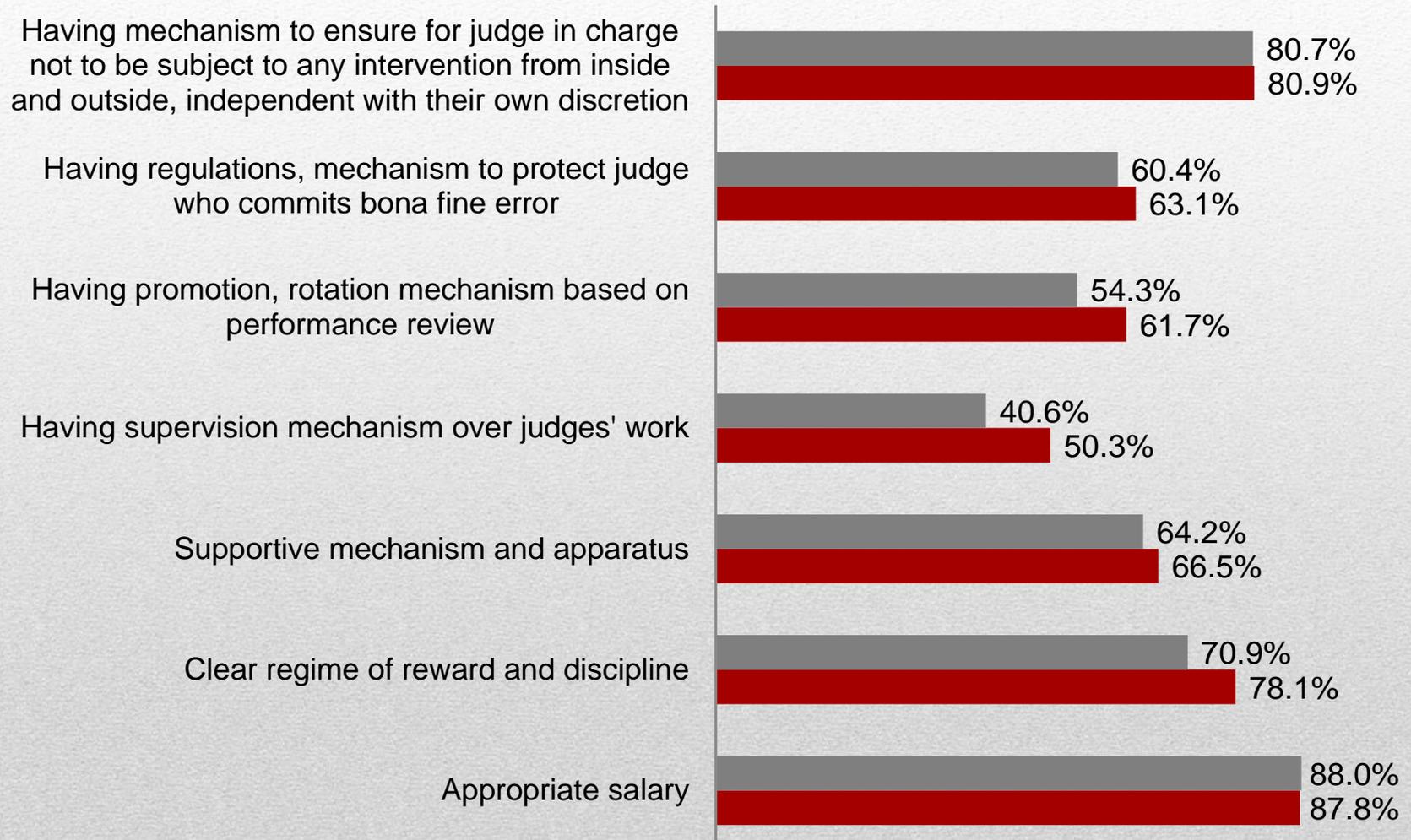
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## Reasons for Judge's exchange about case settlement direction with court leader



# Factors to be ensured for judges to fulfil their duties and guarantee their independence in adjudication

■ District court ■ Provincial court



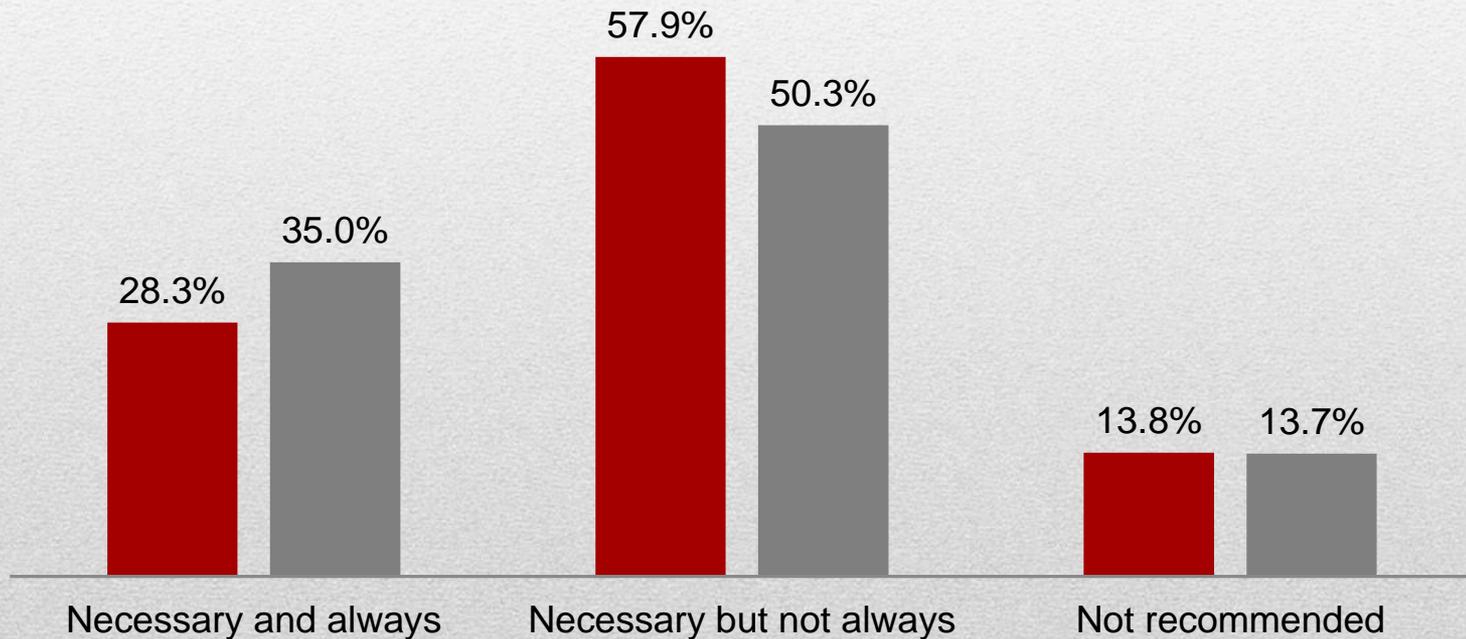
Budget and working conditions

# Publicising adjudication activities

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## Publicising proceedings activities through video and tape recording in hearings

■ Provincial judges   ■ District judges





# COURT GOVERNANCE

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## *Resolution 49/NQ-TW*

- Extend judge candidate sources
- Increase tenure of judicial titles or apply permanent tenure regime.
- Apply the remuneration and reward regime and policy appropriate with the efforts of judicial staff.
- Reform and improve the budget allocation mechanism

## *Issues surveyed*

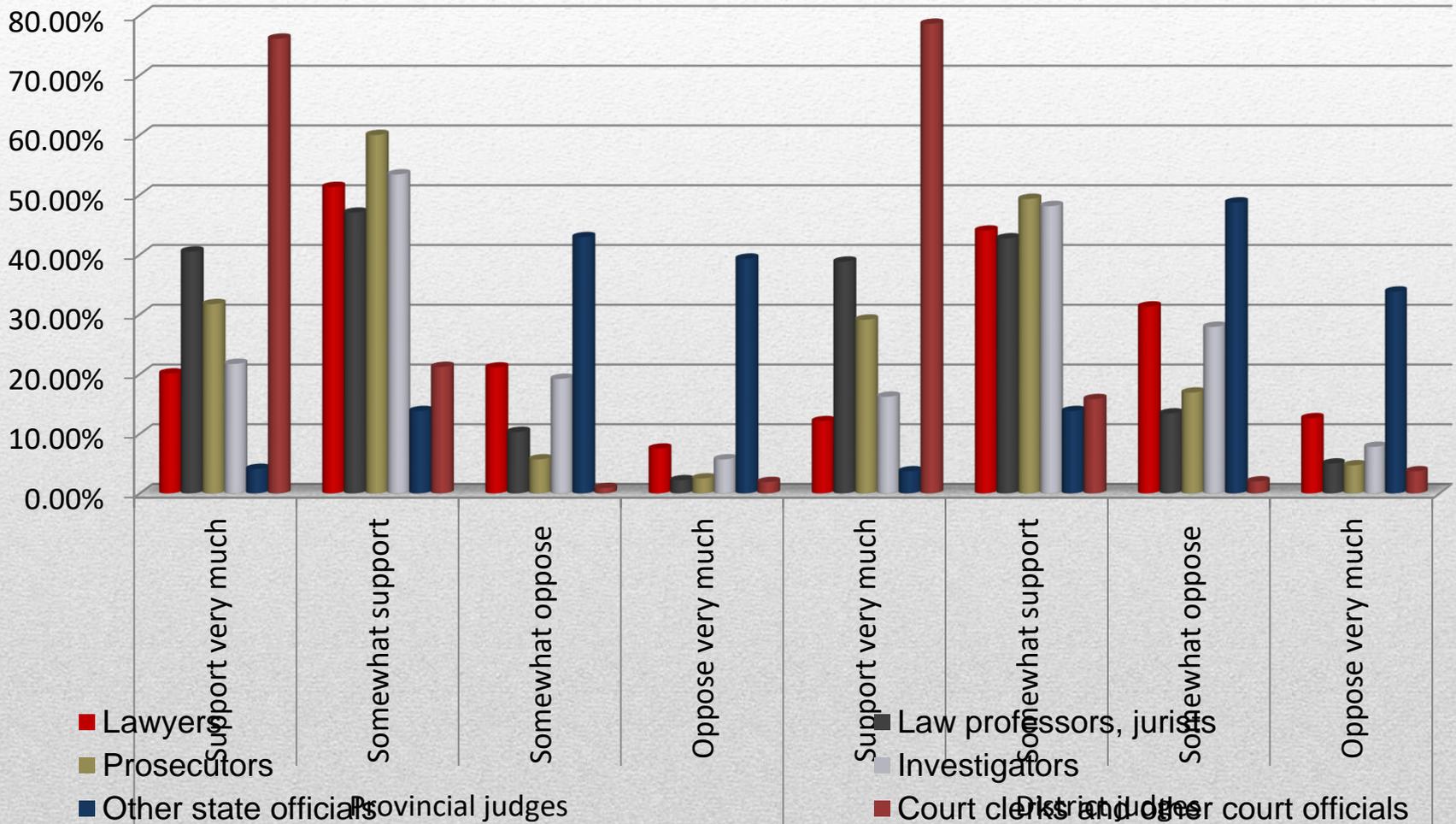
- Judge candidate sources.
- Judge tenure
- Rotation mechanism in tribunal sector
- Reality of budget allocation for court operation presently
- Demand on budget for court operation
- Factors to guarantee the independence of judges
- Judge's demand on equipment for work.

# Court governance

# Personnel management

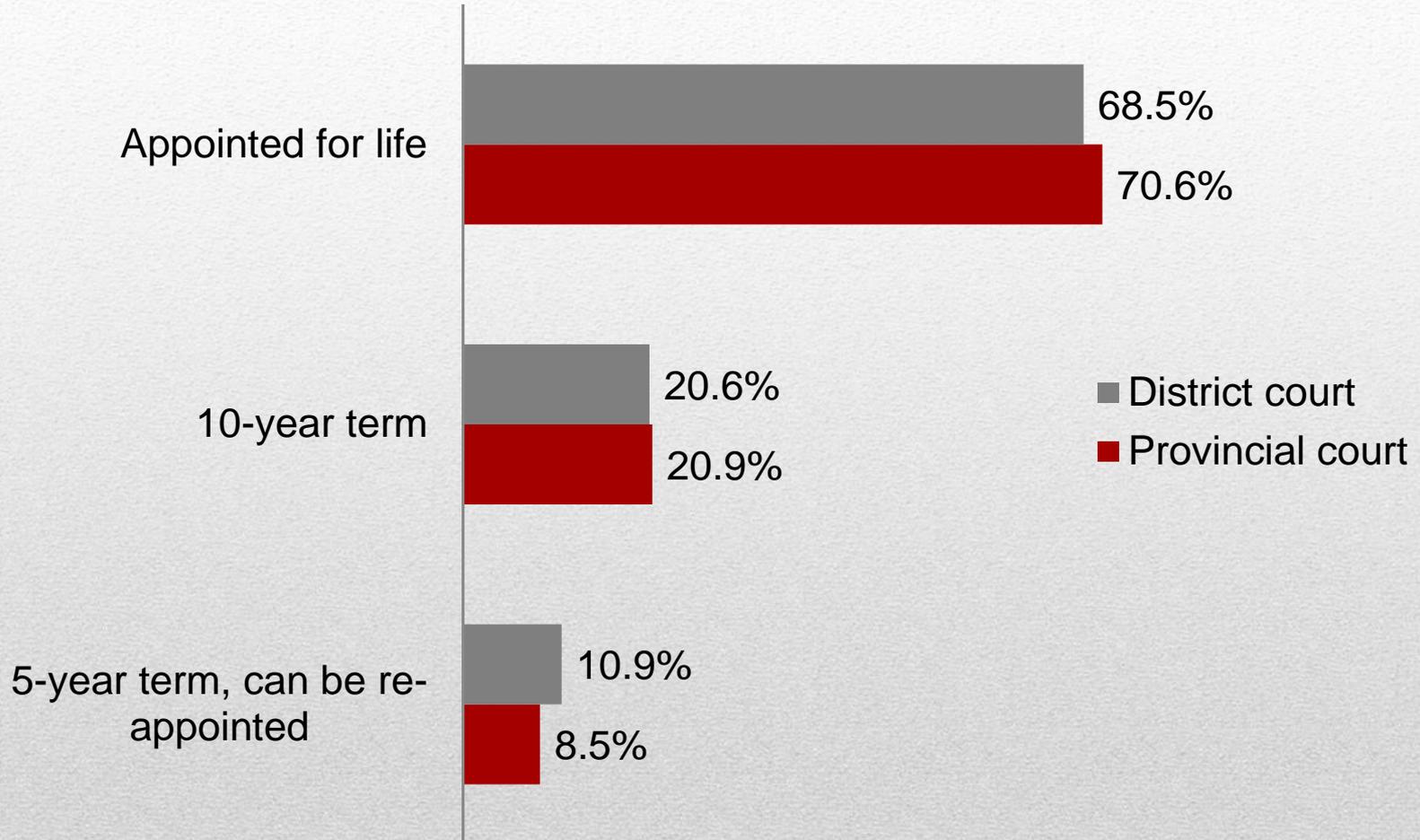
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# Extending sources for judge's appointment

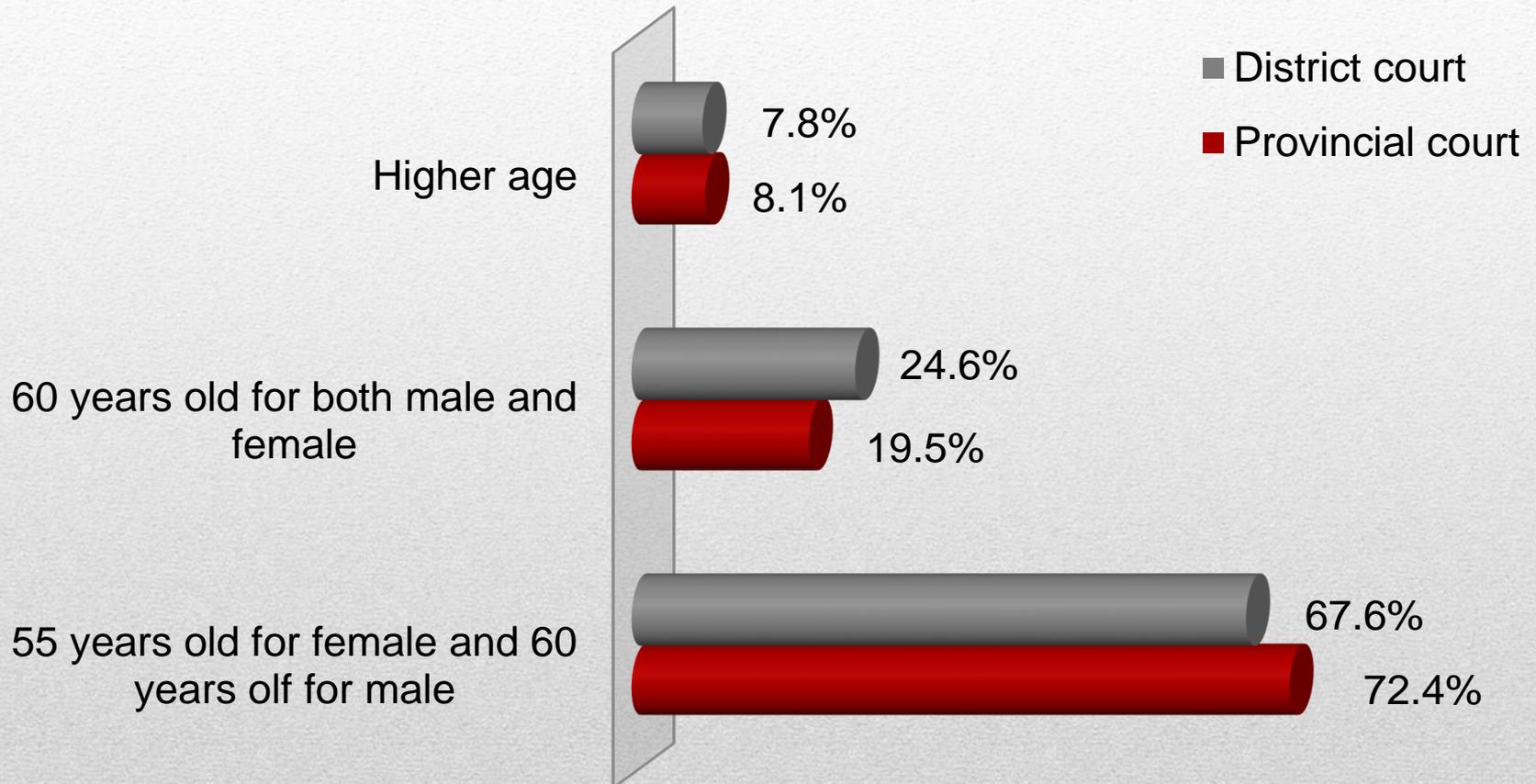


Court governance

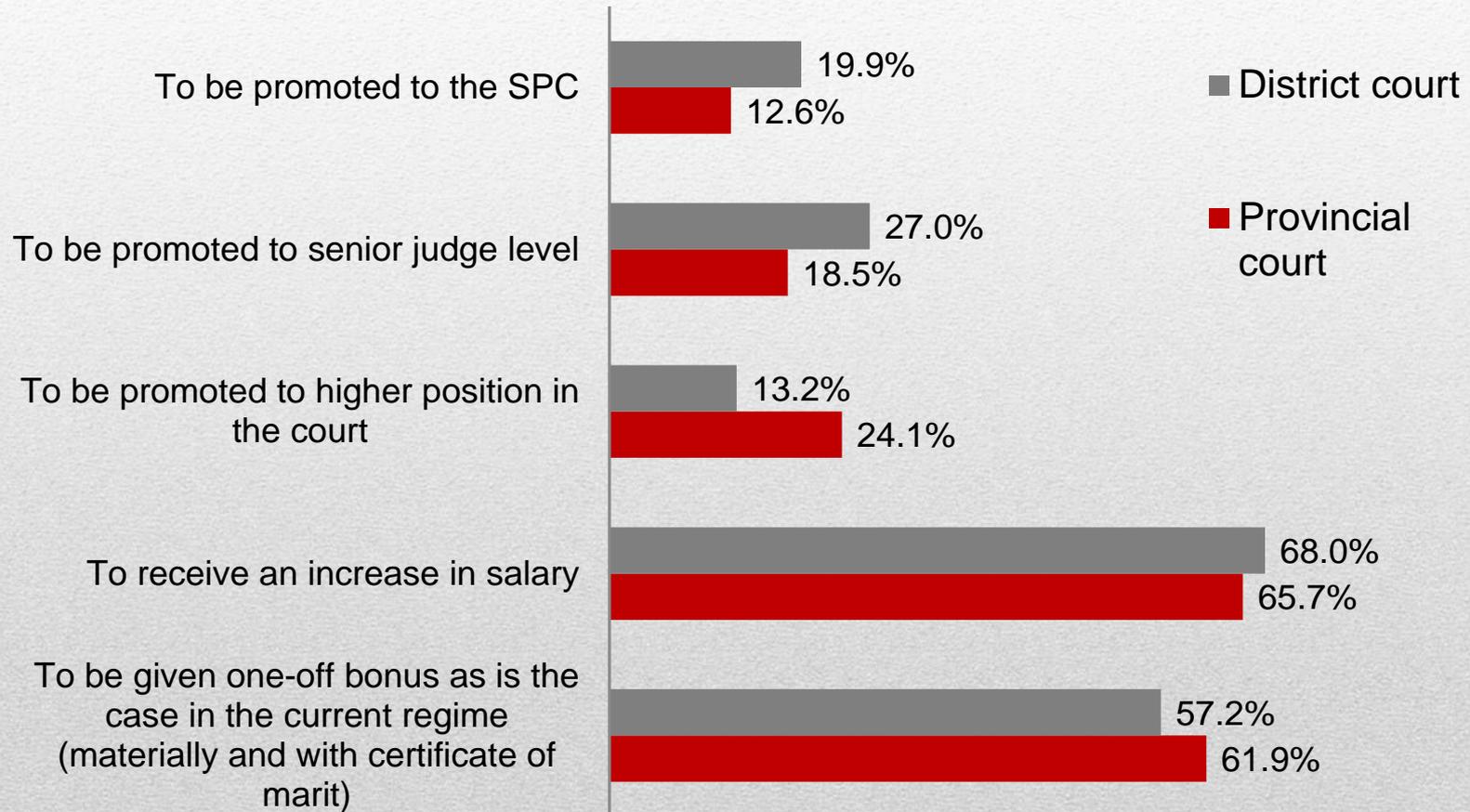
## Judges' viewpoints on judge's term of office



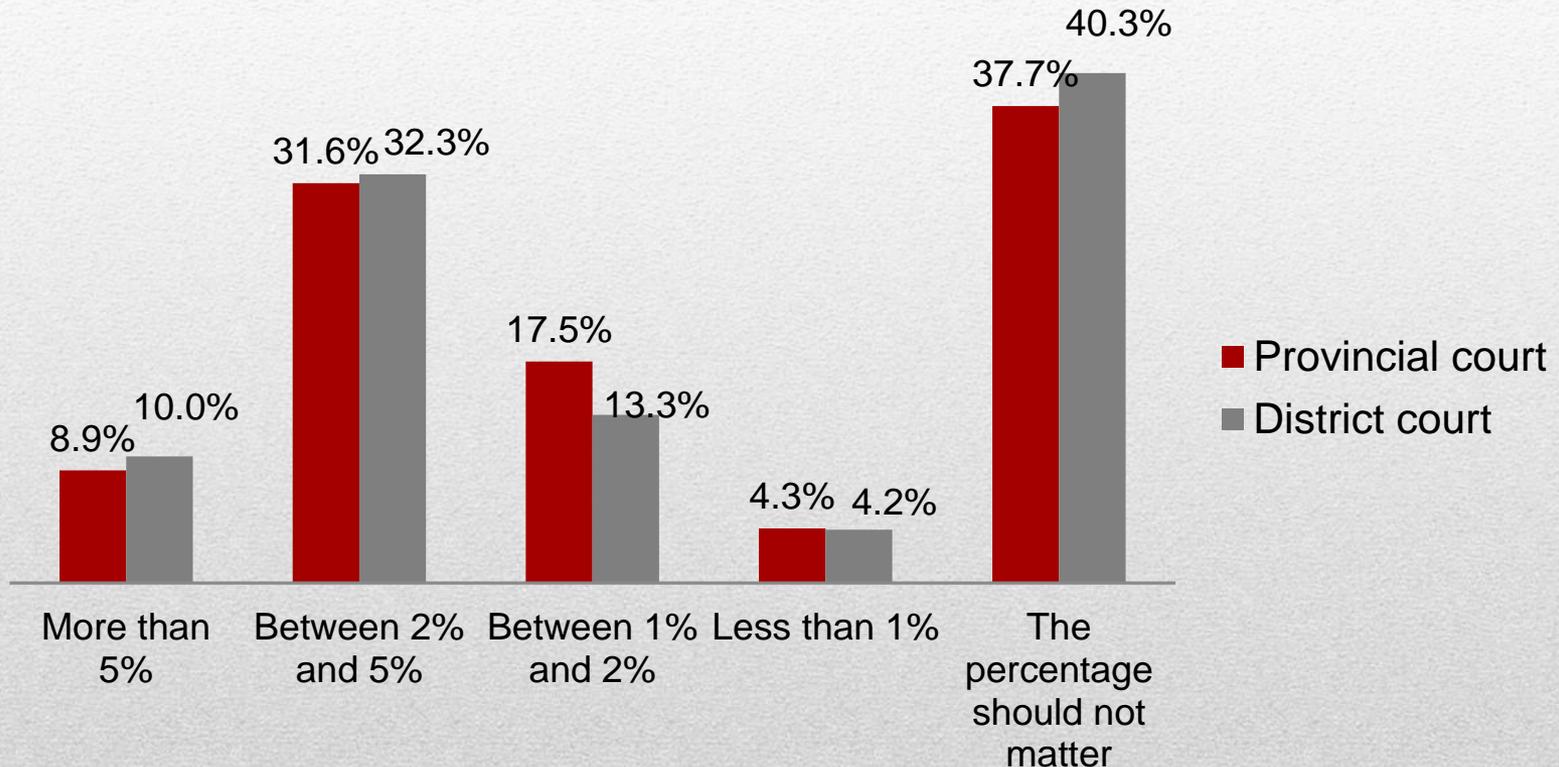
## Judges' viewpoints about retirement age of Judge



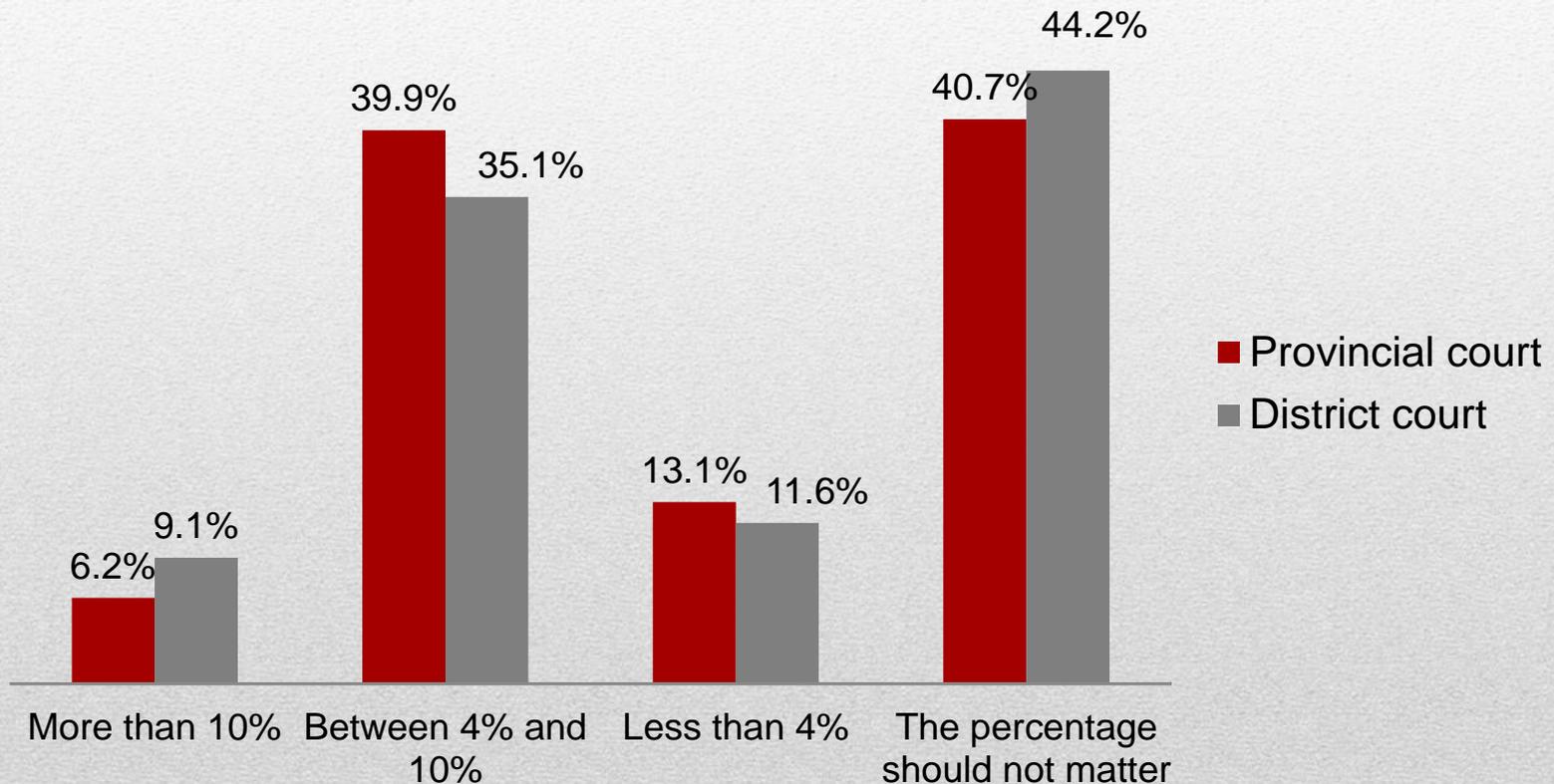
## Judges' viewpoints on preferred forms of incentive



## Judges' views on the rate of allowed overturned cases for reappointment

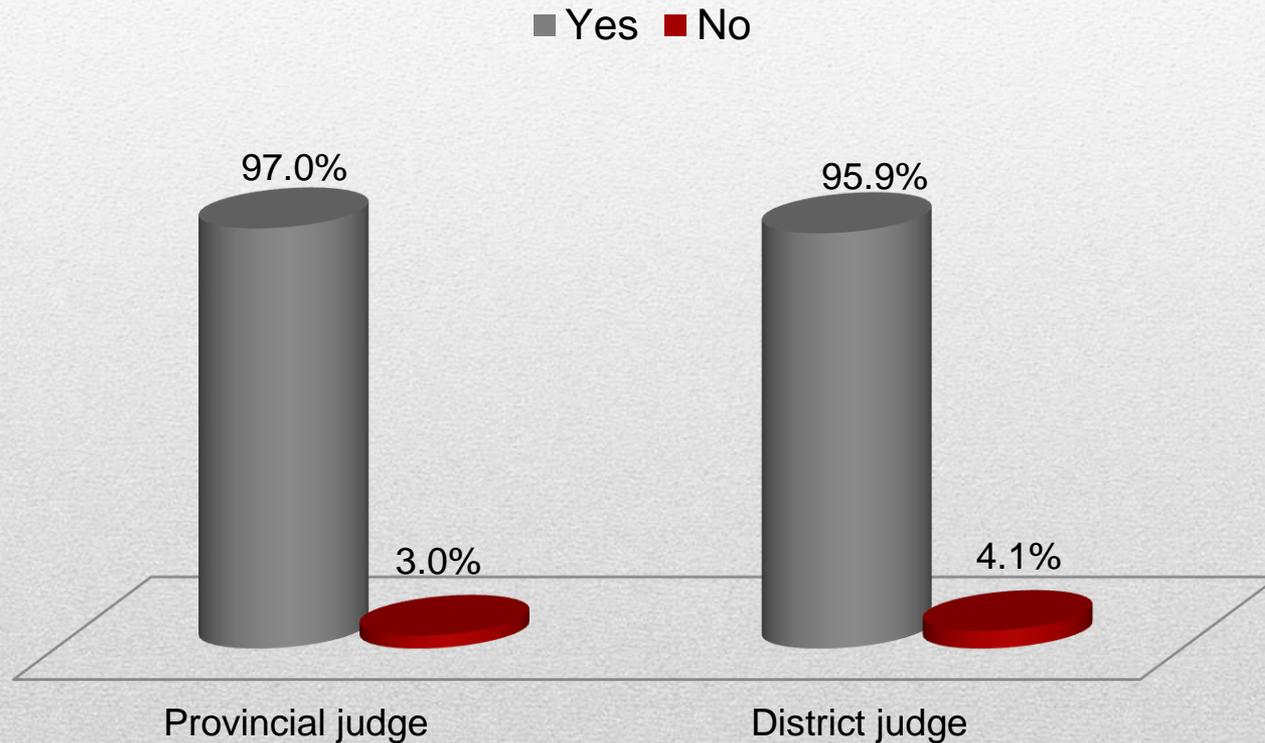


## Judges' views on the rate of amended cases for reappointed



## Management method

### Internal regulations in courts at all levels

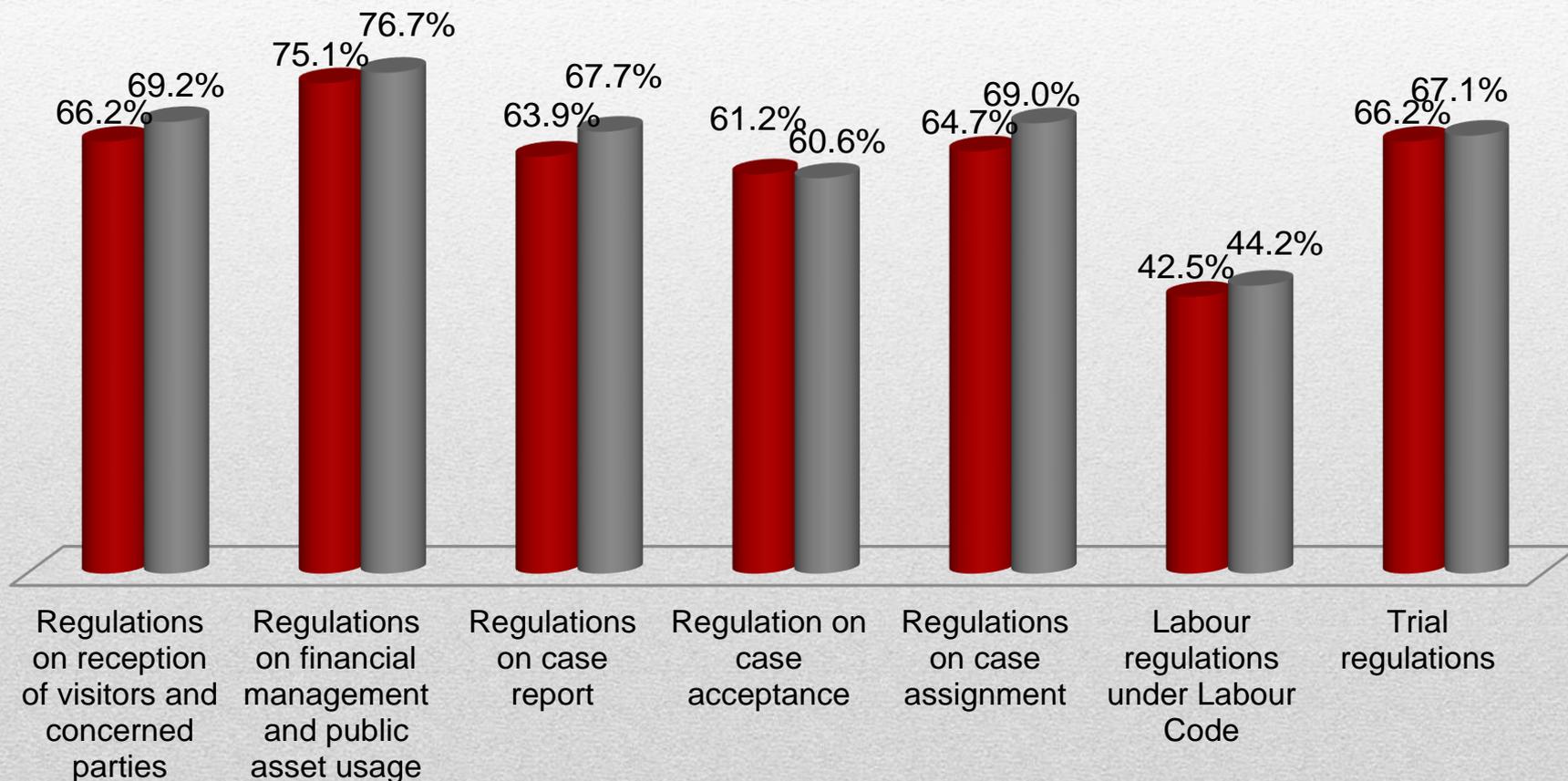


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Management of adjudication work

## Contents of internal regulations of courts under judge's viewpoints

■ District judge ■ Provincial judge



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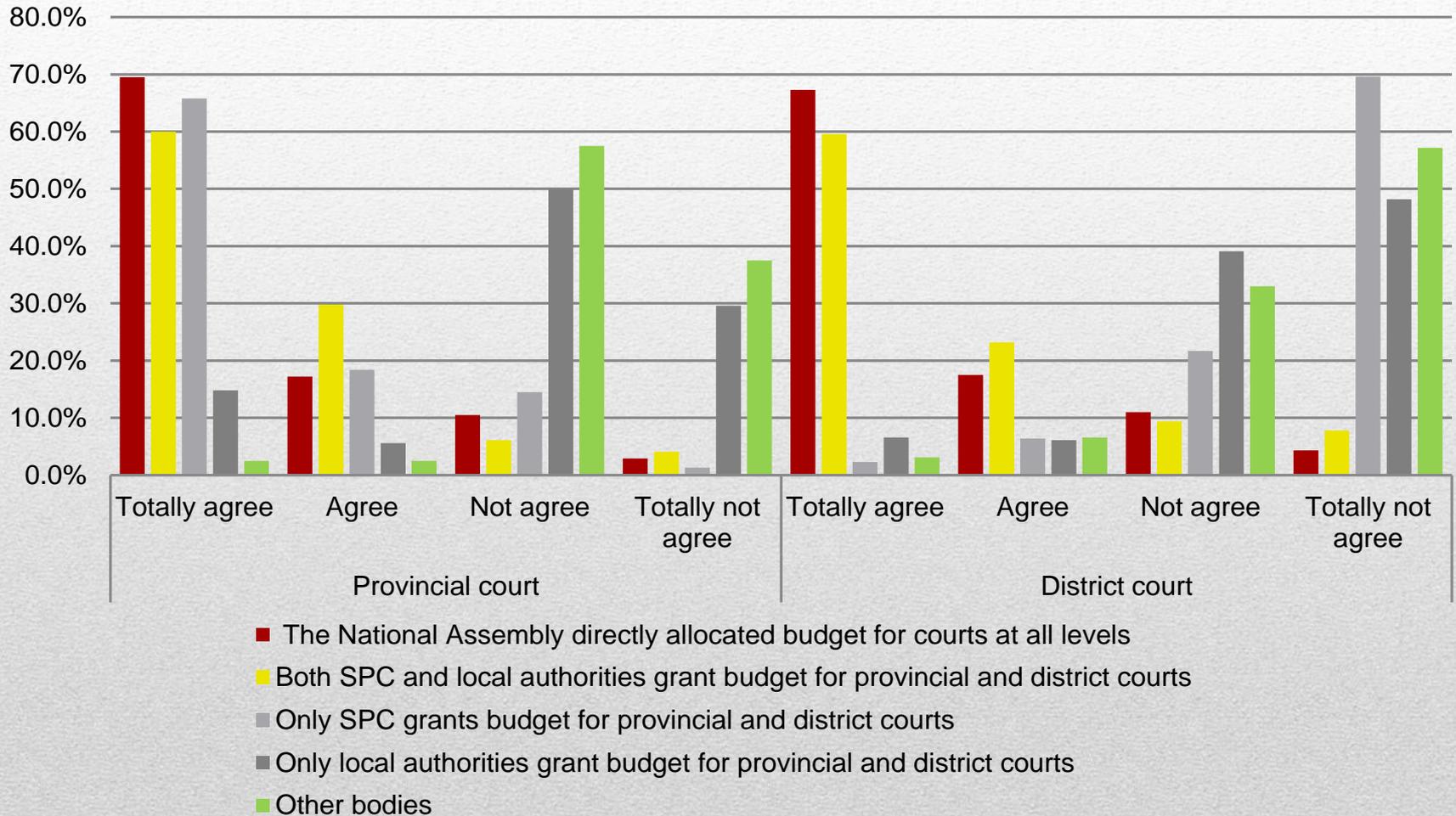
# Management of adjudication work



Guarantee of budget and  
working conditions for Judges

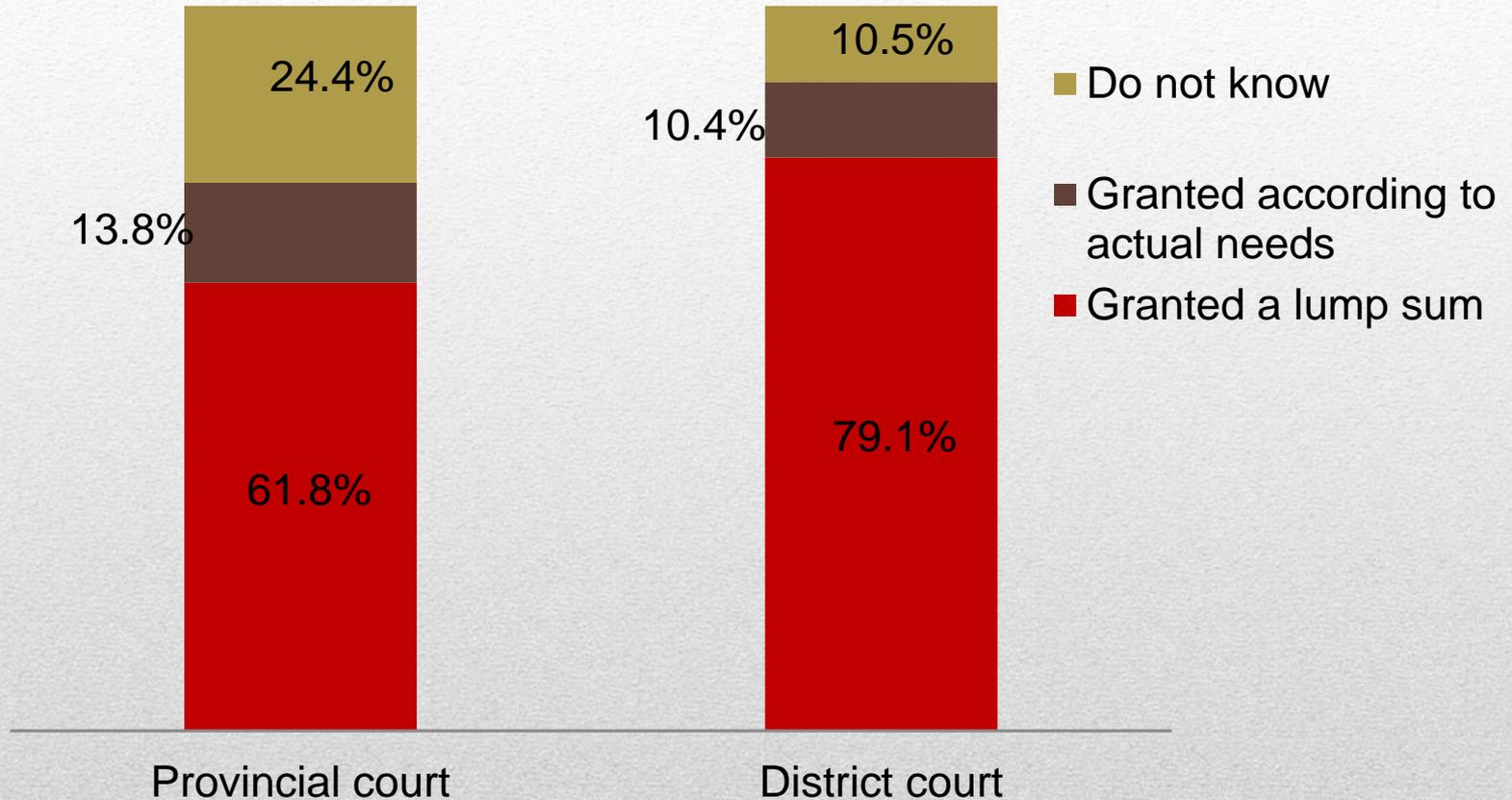
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## Provincial court judges' viewpoints on court budget allocation



Budget and working conditions

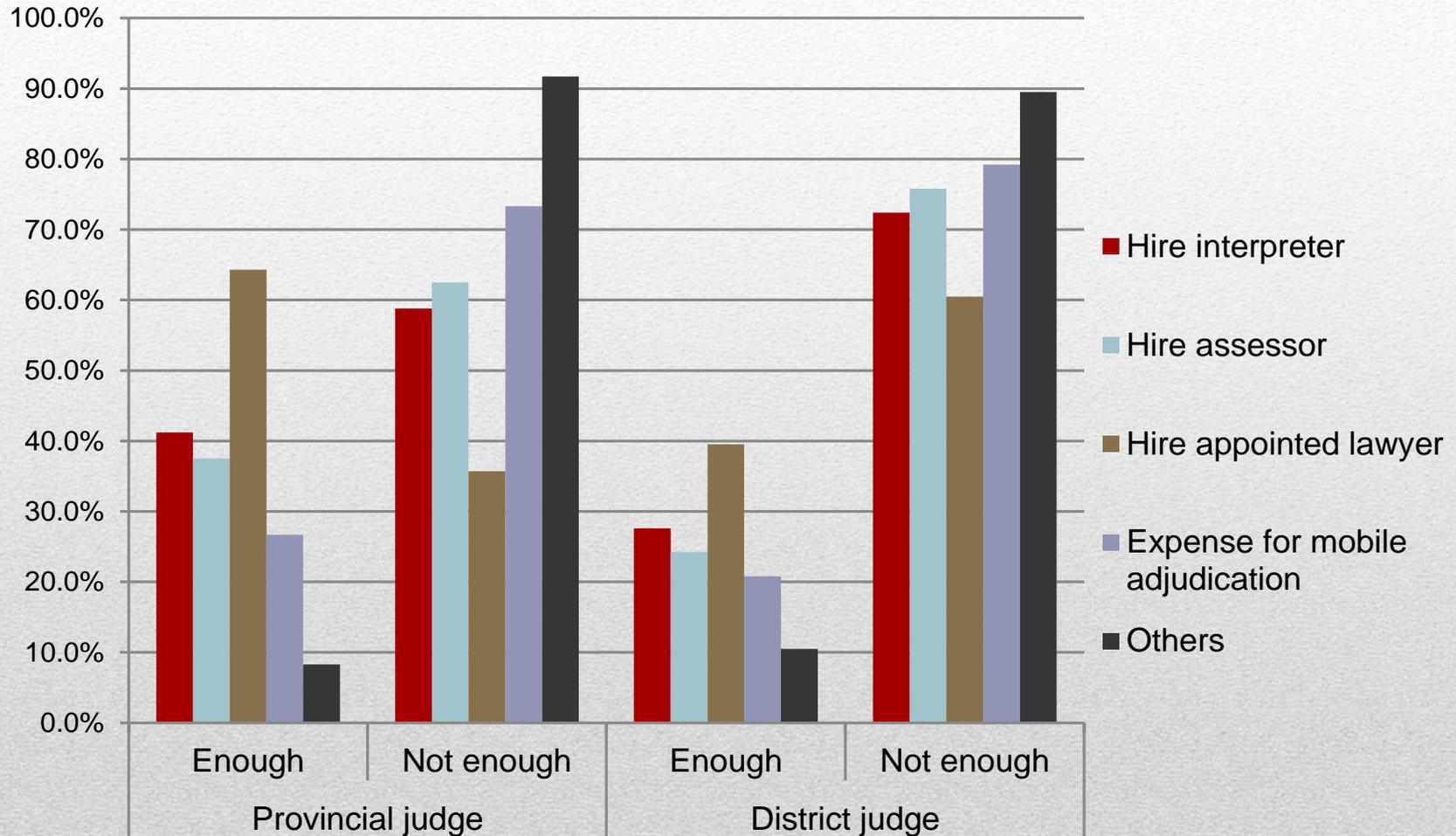
## Mode of budget grant of Courts



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Budget and working conditions

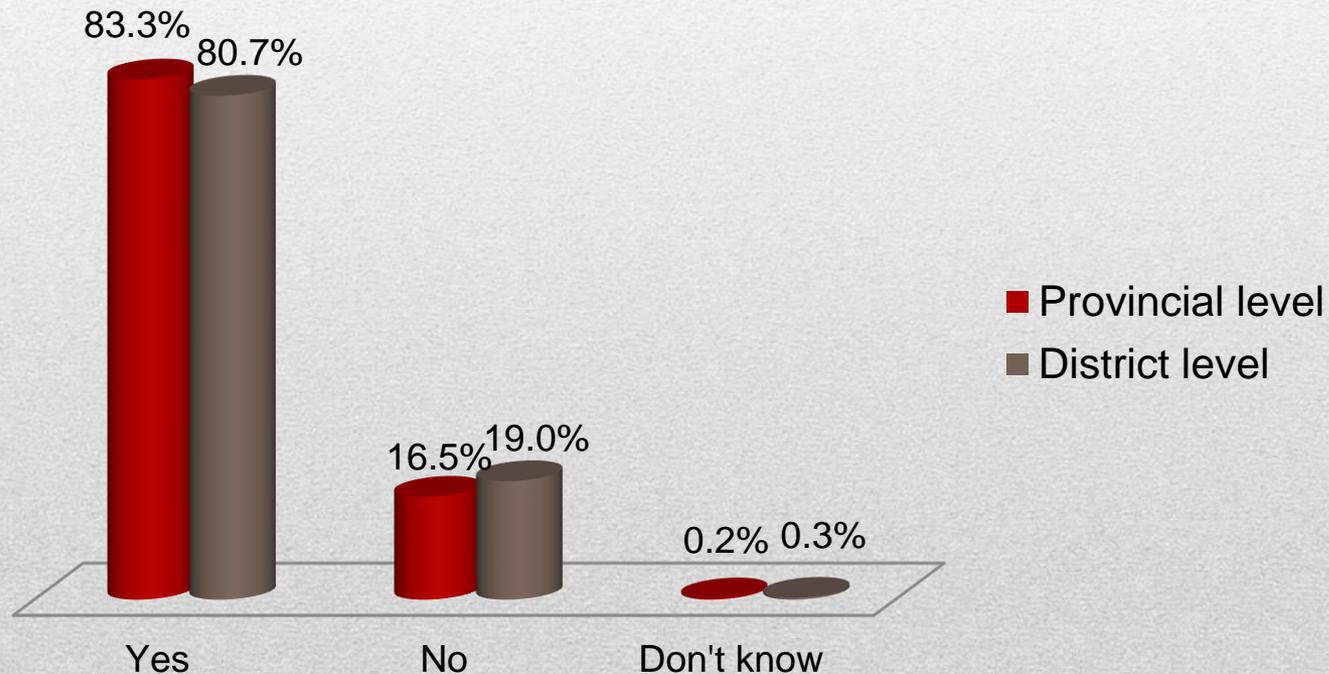
# Practice and Demand for budget of courts



Budget and working conditions

- **73.1%** of provincial judges and **59.2%** of district judges have their own computer. **60.3%** of provincial judges and **49.6%** of district judges has LAN.

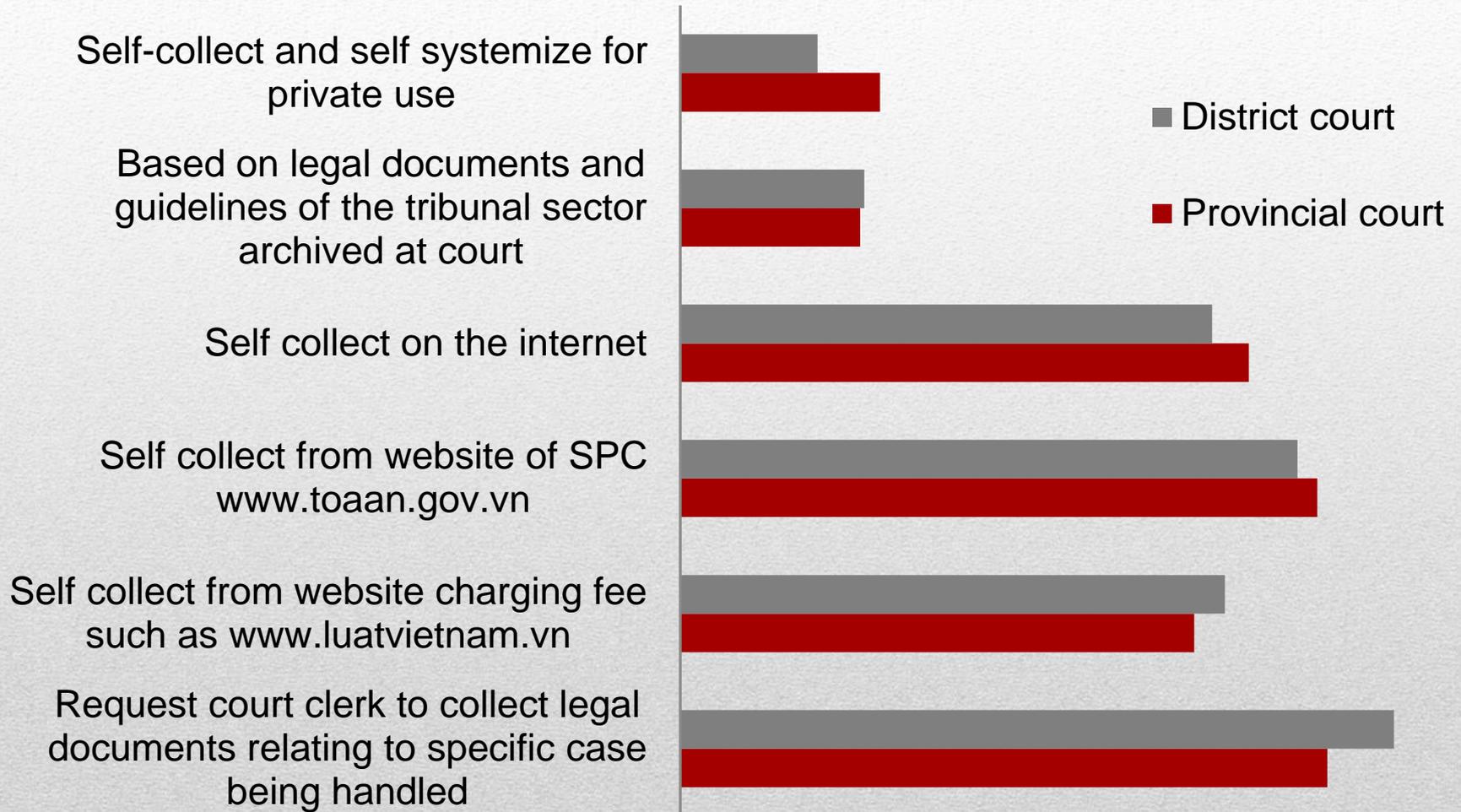
### Computer connected to the Internet



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Budget and working conditions

## Judges' sources for updated legal documents



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## Budget and working conditions



RECIPROCAL IMPACTS  
BETWEEN COURT  
ADMINISTRATION AND  
COURT GOVERNANCE

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- Impacts on adjudication principles
  - Principle of collective adjudication;
  - Principle of independence in adjudication;
  - Principle of people's representation in adjudication;
  - Principle of public trial
- Impacts on people's accessibility to justice

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Reciprocal impact



# SOME NOTABLE ISSUES ON JUDICIAL REFORM

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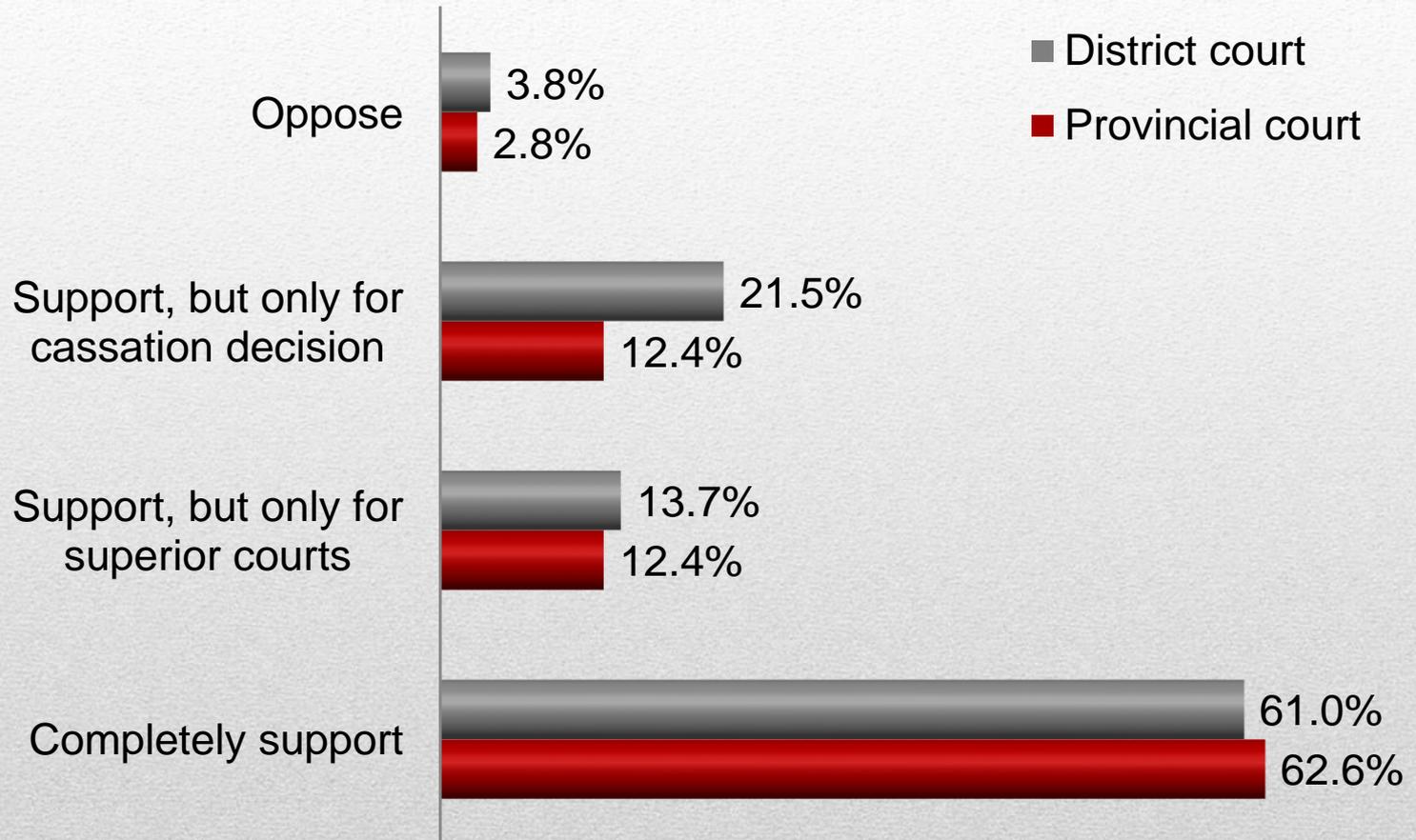
## ***Resolution 49/NQ-TW***

- Focus on construction, improvement of organisation and operation of people's courts
- Make public of proceedings activities and court judgments
- The SPC is assigned the task of summarising adjudication experience, guide the consistent application of law, develop case law.
- Organise the court system by jurisdiction

## ***Issues surveyed***

- Video or tape-recording in hearings
- Publication of court judgments
- Reference of judgments
- Law interpretation assigned to judges
- Law interpretation assigned to the SPC
- Regional court model

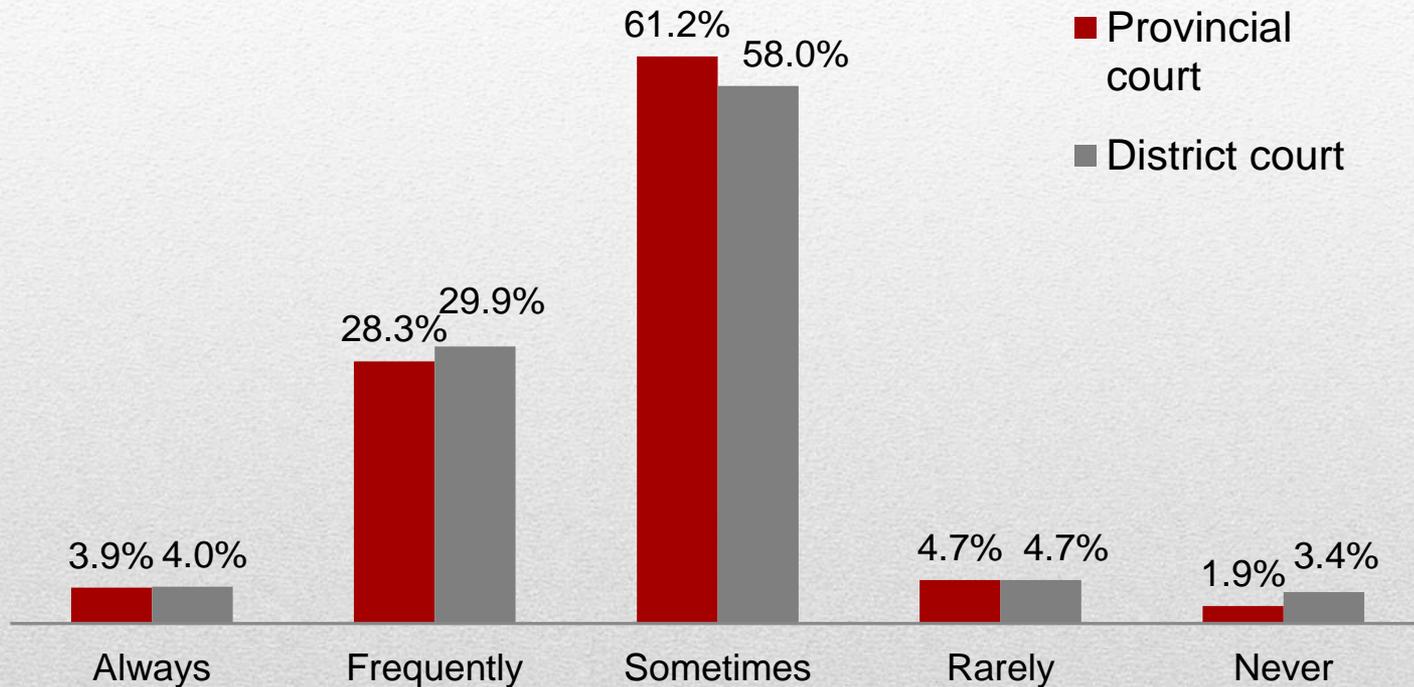
## Judge's views on publicising court' judgments



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Judicial reform

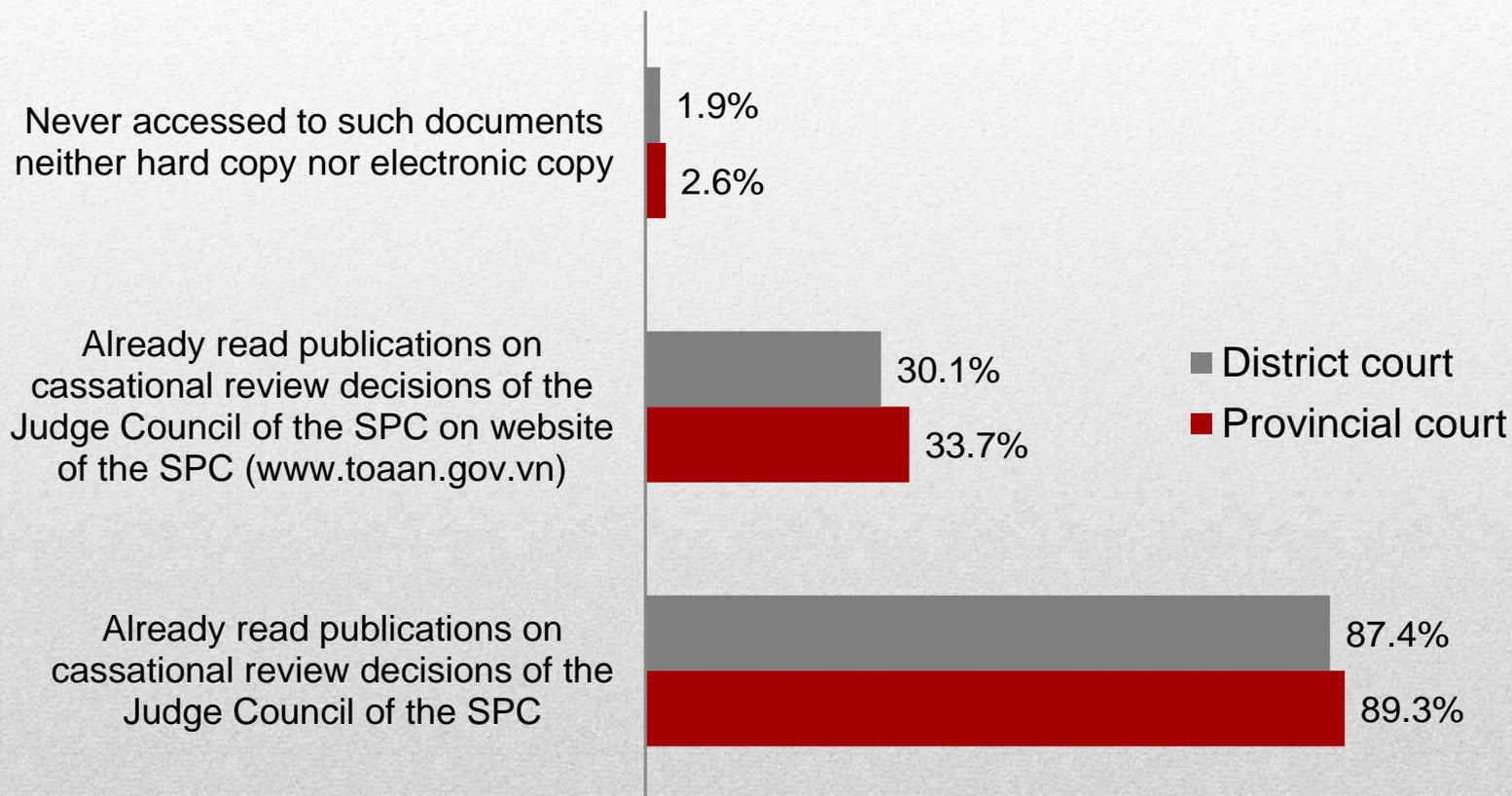
## Judges' reference to judgments, decisions of courts



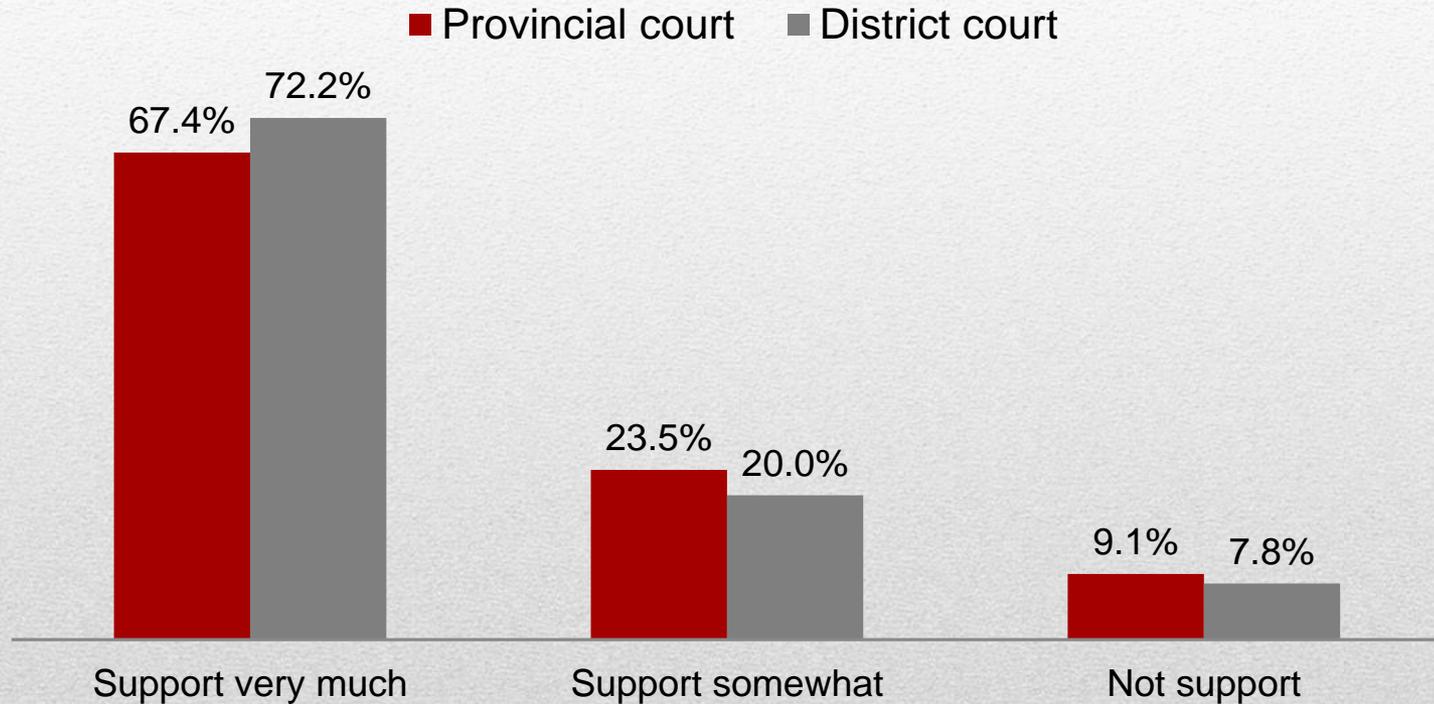
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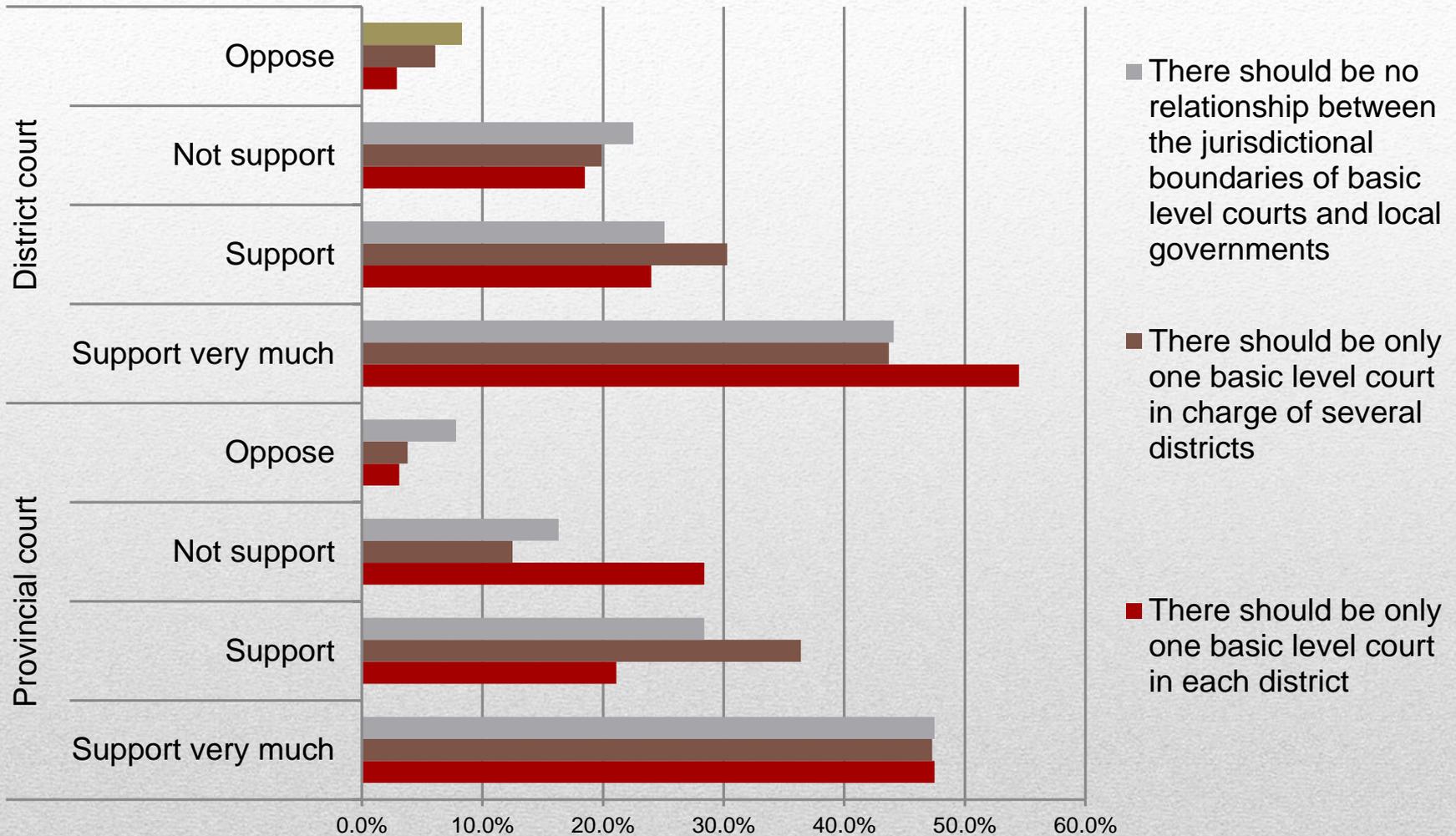
Judicial reform

## Judges' access to cassational review decisions of the SPC



## Judges' views on law interpretation by using judgments or by the SPC as its duty





## Viewpoint about regional court scheme



THANK YOU FOR YOUR  
ATTENTION

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